

<p style="text-align: center;">Page 1</p> <p style="text-align: center;">THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO EASTERN DIVISION - - -</p> <p>IN RE: NATIONAL : HON DAN A PRESCRIPTION OPIATE : POLSTER LITIGATION : : APPLIES TO ALL CASES : NO : 1:17-MD-2804 : - HIGHLY CONFIDENTIAL -</p> <p style="text-align: center;">SUBJECT TO FURTHER CONFIDENTIALITY REVIEW</p> <p style="text-align: center;">- - -</p> <p style="text-align: center;">January 9, 2019</p> <p style="text-align: center;">- - -</p> <p>Videotaped deposition of JINPING McCORMICK, taken pursuant to notice, was held at the offices of Kessler Topaz Meltzer &amp; Check, 280 King of Prussia Road, Radnor, Pennsylvania, beginning at 9:13 a m , on the above date, before Michelle L. Gray, a Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter, and Notary Public</p> <p style="text-align: center;">- - -</p> <p style="text-align: center;">GOLKOW LITIGATION SERVICES 877 370 3377 ph   917 591 5672 fax deps@golkow.com</p>	<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 ROBBINS GELLER RUDMAN &amp; DOWD, LLP</p> <p>4 BY: AELISH M BAIG, ESQ</p> <p>5 Post-Montgomery Center</p> <p>6 One Montgomery Street, Suite 1800</p> <p>7 San Francisco, California 94104</p> <p>8 (415) 288-4545</p> <p>9 aelishb@rgrdlaw.com</p> <p>10</p> <p>11 - and -</p> <p>12</p> <p>13 ROBBINS GELLER RUDMAN &amp; DOWD, LLP</p> <p>14 BY: CARISSA J DOLAN, ESQ</p> <p>15 655 West Broadway, Suite 1900</p> <p>16 San Diego, California 92101</p> <p>17 (619) 231-1058</p> <p>18 cdolan@rgrdlaw.com</p> <p>19 Representing the Plaintiffs</p> <p>20</p> <p>21 GERMANO LAW, LLC</p> <p>22 BY: JUDITH H GERMANO, ESQ</p> <p>23 460 Bloomfield Avenue, Suite 200</p> <p>24 Montclair, New Jersey 07042</p> <p>(201) 247-7970</p> <p>jgermano@germanolaw.com</p> <p>Representing the Witness</p> <p>MORGAN LEWIS &amp; BOCKIUS, LLP</p> <p>BY: JONATHAN E MAIER, ESQ</p> <p>1111 Pennsylvania Avenue, NW</p> <p>Washington, DC 20004</p> <p>(202) 739-5806</p> <p>Jonathan maier@morganlewis.com</p> <p>Representing the Defendant, Teva</p> <p>Pharmaceuticals</p>
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1                   - - -  
2                   E X H I B I T S (Cont'd.)  
3                   - - -  
4  
5       NO.       DESCRIPTION       PAGE  
6       Allergan  
7       McCormick-18 E-mail Thread       246  
8               1/24/12  
9               Subject, Oxymorphone  
10              Prescription Trends  
11              ALLERGAN\_MDL\_02460224-26  
12  
13       Allergan  
14       McCormick-18 E-mail Thread       254  
15              9/2/11  
16              Subject, Follow-up  
17              Discussion Re:  
18              Actavis Oxymorphone  
19              Campaign  
20              Acquired\_Actavis\_00379710-99  
21       Allergan  
22       McCormick-18 E-mail Thread       264  
23              1/24/12  
24              Subject, Oxymorphone  
            Prescription Trends  
            ALLERGAN\_MDL\_02460224

1                   - - -  
2                   E X H I B I T S (Cont'd.)  
3                   - - -  
4  
5       NO.       DESCRIPTION       PAGE  
6       Allergan  
7       McCormick-20 E-mail Thread       282  
8              9/15/11  
9              Subject, Marketing  
10             Plan and Media  
11             Plan  
12             ACTAVIS0346651-52  
13       Allergan  
14       McCormick-21 E-mail Thread       289  
15              9/2/11  
16              Subject, Revised  
17              Marketing Plan  
18              ACTAVIS0622787-89  
19       Allergan  
20       McCormick-22 E-mail Thread       289  
21              11/21/11  
22              Subject, Generic  
23              Kadian Update  
24              ALLERGAN\_MDL\_00396954-60

1                   - - -  
2                   DEPOSITION SUPPORT INDEX  
3                   - - -  
4  
5       Direction to Witness Not to Answer  
6       PAGE LINE  
7       None.  
8       Request for Production of Documents  
9       PAGE LINE  
10       None.  
11       Stipulations  
12       PAGE LINE  
13       None.  
14       Questions Marked  
15       PAGE LINE  
16       None.  
17  
18  
19  
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24

1                   THE VIDEOGRAPHER: We are  
2                   now on the record. My name is Dan  
3                   Lawlor, I'm a videographer with  
4                   Golkow Litigation Services.  
5                   Today's date is January 9,  
6                   2019, and the time is 9:13 a.m.  
7                   This video deposition is  
8                   being held in Radnor,  
9                   Pennsylvania, in the matter of  
10                  National Prescription Opiate  
11                  Litigation, MDL Number 2804.  
12                  The deponent is Jinping  
13                  McCormick.  
14                  Counsel will be noted on the  
15                  stenographic record.  
16                  The court reporter is  
17                  Michelle Gray and will now swear  
18                  in the witness.  
19                  - - -  
20                  ... JINPING MCCORMICK,  
21                  having been first duly sworn, was  
22                  examined and testified as follows:  
23                  - - -  
24                  EXAMINATION

1                   - - -  
 2       BY MS. BAIG:  
 3           Q. Hi, good morning,  
 4       Ms. McCormick.  
 5           A. Good morning.  
 6           Q. We met briefly off the  
 7       record. But could you please state your  
 8       name and address for the record?  
 9           A. Jinping McCormick. I live  
 10       [REDACTED]  
 11       [REDACTED]  
 12           MR. MAIER: Counsel, just  
 13       one thing before we get started.  
 14       Apologies. We'd just request a  
 15       stipulation that an objection for  
 16       one of either the defendants'  
 17       counsel or Ms. McCormick's  
 18       counsel, counts as an objection  
 19       for all.  
 20           MS. BAIG: That's fine.  
 21           MR. MAIER: Thank you.  
 22       BY MS. BAIG:  
 23           Q. Ms. McCormick, have you ever  
 24       had your deposition taken before?

1       Ms. Germano.  
 2           Q. Okay. Are you also  
 3       represented by Allergan and Teva's  
 4       counsel?  
 5           A. Yes.  
 6           Q. Okay. And you have had your  
 7       deposition taken before how many times?  
 8           A. I don't remember exact  
 9       numbers. A few times.  
 10          Q. Few times. But you are  
 11       familiar with the procedures of a  
 12       deposition then?  
 13          A. Yes.  
 14          Q. And you understand that your  
 15       testimony today is under oath?  
 16          A. Yes.  
 17          Q. And you -- if you do not  
 18       understand a question that I am asking,  
 19       please ask me to rephrase.  
 20          A. Sure.  
 21          Q. Otherwise I'll assume that  
 22       you have understood. Okay?  
 23          A. Sure.  
 24          Q. Okay. Did you review

1       A. Yes.  
 2       Q. How many times?  
 3       A. Several times.  
 4       Q. Okay. And did you have it  
 5       taken before in relation to your work at  
 6       Actavis?  
 7       A. No.  
 8       Q. Did you have it taken before  
 9       in relation to your work at Alpharma?  
 10       A. No.  
 11       Q. Okay. What did you do to  
 12       prepare for today's deposition?  
 13       A. I met with my counsel and  
 14       the -- oh, then Teva's counsel yesterday.  
 15       Q. Okay. And you are  
 16       represented by whom today?  
 17       A. By -- maybe just have them  
 18       say their name.  
 19       Q. So are you represented by --  
 20       A. Oh, yeah, I do -- yeah.  
 21       Q. -- Allergan and Teva's  
 22       counsel, or are you represented by  
 23       Ms. Germano?  
 24       A. I am represented by

1       documents in preparation for your  
 2       deposition testimony here today?  
 3       A. Yes.  
 4       Q. And did those documents  
 5       refresh your recollection with respect to  
 6       various issues?  
 7       A. Yes.  
 8       Q. And do you recall -- do you  
 9       recall what documents you looked at?  
 10       A. We have reviewed a lot of  
 11       documents, but nothing stood out.  
 12       Q. You reviewed e-mails from  
 13       your time at Actavis?  
 14       A. Yes.  
 15       Q. Primarily?  
 16       A. Yeah.  
 17       Q. Anything else that you  
 18       recall reviewing?  
 19       A. E-mails from Actavis as you  
 20       stated.  
 21       Q. You don't recall looking at  
 22       anything else?  
 23       A. No.  
 24       Q. At what company did you



<p style="text-align: right;">Page 17</p> <p>1 first work on opioids?</p> <p>2 A. Actavis.</p> <p>3 Q. You didn't work on opioids</p> <p>4 at all at Alpharma?</p> <p>5 A. Alpharma -- let's see. I</p> <p>6 don't remember the timeline exactly when</p> <p>7 it became Alpharma and Actavis.</p> <p>8 Q. Okay. And your position</p> <p>9 at -- when did you first start working at</p> <p>10 Alpharma?</p> <p>11 A. 2004.</p> <p>12 Q. Okay. And what was your</p> <p>13 position there?</p> <p>14 A. I was senior business</p> <p>15 analyst.</p> <p>16 Q. And what were your</p> <p>17 responsibilities there?</p> <p>18 A. I was working on special</p> <p>19 projects for business analytics.</p> <p>20 Q. What does that mean?</p> <p>21 A. I was working with special</p> <p>22 projects that the general manager deemed</p> <p>23 appropriate and important for the</p> <p>24 company.</p>	<p style="text-align: right;">Page 18</p> <p>1 Q. On various special projects?</p> <p>2 A. On various projects, yes.</p> <p>3 Q. Okay. And were you in the</p> <p>4 marketing division?</p> <p>5 A. Not when I started in that</p> <p>6 position.</p> <p>7 Q. Okay. Which division were</p> <p>8 you in when you started?</p> <p>9 A. I was not in marketing, I</p> <p>10 was just in general management.</p> <p>11 Q. Okay. And when did you</p> <p>12 switch over to the marketing department</p> <p>13 at Alpharma?</p> <p>14 A. Six months after I started.</p> <p>15 Q. And what were your</p> <p>16 responsibilities in the marketing</p> <p>17 department at Alpharma?</p> <p>18 A. I started out as a marketing</p> <p>19 manager or product manager.</p> <p>20 Q. For what products?</p> <p>21 A. For a selection -- for</p> <p>22 wholesale products, a number of them.</p> <p>23 Q. Do you recall whether any of</p> <p>24 those products were opioids?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. I do not remember specific</p> <p>2 products at that -- now, so many years</p> <p>3 ago.</p> <p>4 Q. Okay. So you don't remember</p> <p>5 any of the products that you worked on</p> <p>6 when you were at Alpharma?</p> <p>7 A. Just at the beginning,</p> <p>8 right?</p> <p>9 Q. When you were in the</p> <p>10 marketing department at Alpharma?</p> <p>11 A. Yeah.</p> <p>12 Q. Before you were with</p> <p>13 Actavis?</p> <p>14 A. Right.</p> <p>15 Q. You don't remember any of</p> <p>16 those products?</p> <p>17 A. I remember products. I just</p> <p>18 don't remember exactly what the products</p> <p>19 are at this moment, because there are so</p> <p>20 many products. And more products were</p> <p>21 added as I -- as I progressed, because I</p> <p>22 have been there for eight years.</p> <p>23 THE VIDEOGRAPHER: Excuse me</p> <p>24 one second. Can we go off the</p>	<p style="text-align: right;">Page 20</p> <p>1 record for just a moment? Going</p> <p>2 off record. The time is 9:19.</p> <p>3 (Short break.)</p> <p>4 THE VIDEOGRAPHER: We are</p> <p>5 going back on record, beginning of</p> <p>6 Media File 2. The time is 9:26.</p> <p>7 BY MS. BAIG:</p> <p>8 Q. So what were the various</p> <p>9 positions that you held at Alpharma?</p> <p>10 A. Senior business analyst to</p> <p>11 start with, then marketing manager, and</p> <p>12 at some time post-Alpharma, the company</p> <p>13 became Actavis.</p> <p>14 Q. And when the company became</p> <p>15 Actavis, did that change your</p> <p>16 responsibilities at all?</p> <p>17 A. No.</p> <p>18 (Document marked for</p> <p>19 identification as Exhibit</p> <p>20 Allergan-McCormick-1.)</p> <p>21 BY MS. BAIG:</p> <p>22 Q. We'll have this document</p> <p>23 marked as Exhibit 1.</p> <p>24 This document is Bates</p>

<p style="text-align: right;">Page 21</p> <p>1 stamped Acquired_Actavis_00588522 through</p> <p>2 588525. And it appears to be a copy of</p> <p>3 your resumé as of August of 2012; is that</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. And is this a true and</p> <p>7 correct copy of your resumé and your</p> <p>8 accomplishments and positions held as of</p> <p>9 that time?</p> <p>10 A. Appears so.</p> <p>11 Q. And so here you have that</p> <p>12 you were working at Actavis from 2004 to</p> <p>13 the -- to the then present, 2012,</p> <p>14 correct?</p> <p>15 A. So I started in 2004 in</p> <p>16 Alpharma, then Alpharma became Actavis.</p> <p>17 And then I stayed with the company till</p> <p>18 the end of 2012.</p> <p>19 Q. Okay.</p> <p>20 A. Yes.</p> <p>21 Q. And where did you go in</p> <p>22 2012?</p> <p>23 A. So at the beginning of 2013</p> <p>24 I joined the company called Dr. Reddy's</p>	<p style="text-align: right;">Page 22</p> <p>1 Laboratories. That's where I am working</p> <p>2 today.</p> <p>3 Q. Okay. And are you currently</p> <p>4 working on any opioid products at</p> <p>5 Dr. Reddy's?</p> <p>6 A. Yes.</p> <p>7 Q. Which products are you</p> <p>8 working on there?</p> <p>9 A. Oxycodone acetaminophen.</p> <p>10 Q. Any other opioid products?</p> <p>11 A. There are other Schedule II.</p> <p>12 Methylphenidate, mixed amphetamine salts.</p> <p>13 Q. Anything else?</p> <p>14 A. Some of the pipeline</p> <p>15 products.</p> <p>16 Q. Okay. Yes.</p> <p>17 And what is your position at</p> <p>18 Dr. Reddy's?</p> <p>19 A. I'm the vice president of</p> <p>20 sales and marketing for Retail Rx product</p> <p>21 for the U.S. market.</p> <p>22 Q. When you were a senior</p> <p>23 business analyst at Alpharma, who did you</p> <p>24 report to?</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Doug Boothe.</p> <p>2 Q. And who did he report to?</p> <p>3 A. Fred Lynch. If I remember</p> <p>4 correctly.</p> <p>5 Q. And who did he report to?</p> <p>6 A. I'm not sure. I think he</p> <p>7 reported to the CEO. But I'm not</p> <p>8 100 percent sure.</p> <p>9 Q. The CEO of Allergan?</p> <p>10 A. Of Alpharma.</p> <p>11 Q. CEO of Alpharma. Do you</p> <p>12 know who that was at the time?</p> <p>13 A. I don't -- I don't remember</p> <p>14 now. I did know back then.</p> <p>15 Q. Okay. And when you moved</p> <p>16 from your position of senior business</p> <p>17 analyst to marketing manager at Alpharma,</p> <p>18 who did you report to?</p> <p>19 A. I reported to Joe Corsetti.</p> <p>20 Q. And what was his position?</p> <p>21 A. He was the director of</p> <p>22 marketing.</p> <p>23 Q. And who did he report to?</p> <p>24 A. I'm not really sure. I mean</p>	<p style="text-align: right;">Page 24</p> <p>1 I couldn't remember now.</p> <p>2 Q. Okay. When you were at</p> <p>3 Actavis, your first -- did you -- did</p> <p>4 your position stay the same when Alpharma</p> <p>5 became Actavis?</p> <p>6 MS. VENTURA: Objection to</p> <p>7 form.</p> <p>8 THE WITNESS: I had the same</p> <p>9 position and title.</p> <p>10 BY MS. BAIG:</p> <p>11 Q. And did you have the same</p> <p>12 reporting structure?</p> <p>13 A. Yes.</p> <p>14 Q. That didn't change?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay. And at what point --</p> <p>17 at what point did your position change</p> <p>18 from the position of marketing manager?</p> <p>19 A. You mean from the marketing</p> <p>20 manager to senior manager?</p> <p>21 Q. Yes.</p> <p>22 A. It's some time in 2006.</p> <p>23 Q. So you went from marketing</p> <p>24 manager?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. To senior manager.</p> <p>2 Q. To senior manager. To?</p> <p>3 A. Director.</p> <p>4 Q. Director of marketing?</p> <p>5 A. Marketing.</p> <p>6 Q. And was that the last</p> <p>7 position that you held at Actavis?</p> <p>8 A. Yes.</p> <p>9 Q. And when you were director</p> <p>10 of marketing, were you director of</p> <p>11 marketing for brand name drugs and</p> <p>12 generic drugs?</p> <p>13 A. Only generic drugs.</p> <p>14 Q. And who was in charge of</p> <p>15 marketing of brand name drugs?</p> <p>16 A. Nathalie Leitch.</p> <p>17 Q. So when you were director of</p> <p>18 generic marketing at Actavis, is this,</p> <p>19 looking at the first page of your resumé</p> <p>20 here, is this a fair summary of your</p> <p>21 responsibilities in that position,</p> <p>22 starting with bullet -- Bullet Number 1,</p> <p>23 that you led generic prescription</p> <p>24 marketing team, partnering closely with</p>	<p style="text-align: right;">Page 26</p> <p>1 sales, pricing and contract teams, making</p> <p>2 significant contributions by achieving</p> <p>3 four consecutive years of sales and</p> <p>4 profit growth and exceeding budget in a</p> <p>5 highly competitive and dynamic</p> <p>6 marketplace.</p> <p>7 Is that a fair summary of</p> <p>8 what you were doing in that position at</p> <p>9 that time?</p> <p>10 A. Yes.</p> <p>11 Q. And in the next bullet point</p> <p>12 where you have strategize with VP of</p> <p>13 sales and marketing, was that Mike</p> <p>14 Perfetto?</p> <p>15 A. That's correct.</p> <p>16 Q. But you didn't report to</p> <p>17 Mike Perfetto?</p> <p>18 A. I did at that time. As the</p> <p>19 director of marketing I reported to Mike</p> <p>20 Perfetto.</p> <p>21 Q. Okay. So when did your</p> <p>22 reporting structure change?</p> <p>23 A. When I got promoted to the</p> <p>24 director of marketing, that's the head of</p>
<p style="text-align: right;">Page 27</p> <p>1 marketing, then I reported to Mike</p> <p>2 Perfetto.</p> <p>3 Q. Okay. And Mike Perfetto</p> <p>4 reported to whom?</p> <p>5 A. Doug Boothe.</p> <p>6 Q. And Doug Boothe reported to?</p> <p>7 A. Doug Boothe reported to a</p> <p>8 number of people over the years, because</p> <p>9 there was, of course, management change.</p> <p>10 Q. Mm-hmm.</p> <p>11 A. At one time he reported to</p> <p>12 Siggi Olafsson.</p> <p>13 Q. To who?</p> <p>14 A. Siggi Olafsson.</p> <p>15 Q. Okay. What was Siggi</p> <p>16 Olafsson's position?</p> <p>17 A. He was the CEO for a period</p> <p>18 of time. Like I said, Doug also reported</p> <p>19 to others when the management changed at</p> <p>20 the top, at the corporate.</p> <p>21 Q. Mm-hmm.</p> <p>22 As the director of marketing</p> <p>23 of generic products, do you recall -- at</p> <p>24 Actavis, do you recall which generic</p>	<p style="text-align: right;">Page 28</p> <p>1 opioid products you were marketing?</p> <p>2 A. Yes.</p> <p>3 Q. Which ones?</p> <p>4 A. Oxycodone immediate-release</p> <p>5 tablets, Oxycodone extended-release</p> <p>6 tablets -- that's generic for OxyContin.</p> <p>7 There's fentanyl patch. Oxymorphone</p> <p>8 extended-release, that's generic for</p> <p>9 Opana ER. What other one? There's the</p> <p>10 authorized generic, generic Kadian, so</p> <p>11 that's generic morphine sulfate</p> <p>12 extended-release. What other ones?</p> <p>13 If you showed me a list, it</p> <p>14 probably would help.</p> <p>15 Q. We'll get to that, I'm sure,</p> <p>16 in the documents.</p> <p>17 A. Okay. That's just off the</p> <p>18 top of my head.</p> <p>19 Q. Okay.</p> <p>20 (Telephonic interruption.)</p> <p>21 THE VIDEOGRAPHER: Going off</p> <p>22 the record. The time is 9:38.</p> <p>23 (Short break.)</p> <p>24 THE VIDEOGRAPHER: We are</p>

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1 going back on record. Beginning  
 2 of Media File 3. The time is  
 3 9:42.  
 4 BY MS. BAIG:  
 5 Q. So when you were at Actavis,  
 6 did you work on any drugs that were used  
 7 to help with opioid addiction?  
 8 A. Yes.  
 9 Q. What drugs were those?  
 10 A. That's Suboxone sublingual  
 11 tablets.  
 12 Q. And what do you recall about  
 13 your marketing efforts with respect to  
 14 Suboxone?  
 15 MS. VENTURA: Objection to  
 16 form.  
 17 THE WITNESS: We were  
 18 getting ready to launch. The  
 19 product was not launched while I  
 20 was there. It was launched later.  
 21 BY MS. BAIG:  
 22 Q. When was the product  
 23 launched? Do you know?  
 24 A. I did not track post -- I

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1 left the company.  
 2 Q. So they were preparing to  
 3 launch in 2013?  
 4 MS. VENTURA: Objection to  
 5 form.  
 6 MR. MAIER: Objection, form.  
 7 THE WITNESS: When I was  
 8 there, we were preparing to launch  
 9 in 2012, but did not launch till  
 10 after I left.  
 11 BY MS. BAIG:  
 12 Q. And what did you do in  
 13 connection with the preparation to launch  
 14 Suboxone in -- when you were there?  
 15 A. I was working with product  
 16 development team and project manager to  
 17 make sure we have, you know, product  
 18 available and ready to launch from both  
 19 technical and the market perspective.  
 20 Q. Which product development  
 21 team, who was on your product development  
 22 team for Suboxone?  
 23 A. I don't remember now. It  
 24 was a team in the R&D organization and

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1 the technical services.  
 2 Q. You don't remember anybody  
 3 on that team?  
 4 A. No, I don't.  
 5 Q. Do you recall the project  
 6 manager that was working on the Suboxone  
 7 launch in 2012?  
 8 A. Project manager, I think  
 9 it's Bruce Sullivan.  
 10 Q. And when you say you were  
 11 working with the product development team  
 12 and the product manager --  
 13 A. Project manager.  
 14 Q. -- project manager in  
 15 connection with the launch, what did that  
 16 work entail exactly?  
 17 A. We would have regular  
 18 meetings talking about various tasks  
 19 and -- both technical and prep -- and  
 20 just technical and logistic to get the  
 21 product ready so we can -- so we have  
 22 enough product to -- when the approval  
 23 comes.  
 24 Q. And so were there marketing

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1 materials created in connection with  
 2 Suboxone?  
 3 MR. MAIER: Objection to  
 4 form.  
 5 THE WITNESS: No. It was  
 6 too early.  
 7 BY MS. BAIG:  
 8 Q. Would there have been  
 9 product launch materials created in  
 10 connection with Suboxone when you were  
 11 there?  
 12 MR. MAIER: Objection to  
 13 form.  
 14 THE WITNESS: No.  
 15 BY MS. BAIG:  
 16 Q. It was too early?  
 17 A. Right.  
 18 Q. So that happened after you  
 19 left? I mean, it would have happened  
 20 after you left?  
 21 MS. VENTURA: Objection.  
 22 MR. KNAPP: Objection.  
 23 THE WITNESS: In the normal  
 24 course of business, I would --



<p style="text-align: right;">Page 33</p> <p>1        yeah, I would think that is what 2        happened. 3        MS. VENTURA: I would like 4        to just note for the record that 5        objection that was made was 6        objection to foundation. 7        BY MS. BAIG: 8        Q. I think you noted on your 9        resumé you received a prestigious HDMA 10       DIANA award. DIANA refers to 11       Distribution Industry Awards for Notable 12       Achievement in Healthcare; is that right? 13       A. Yes. It -- meaning the 14       company. The company received the award. 15       Q. I see. Okay. That was for 16       the best new generic product introduction 17       category; is that right? 18       A. Yes. 19       Q. And so what exactly was that 20       award received for? 21       A. It was for the introduction 22       of oxymorphone ER. 23       Q. Okay. And can you tell me a 24       little bit about the DIANA award</p>	<p style="text-align: right;">Page 34</p> <p>1        generally. I mean, what is that award 2        for? 3        A. The DIANA award was offered 4        by the HDMA. It's industry association 5        for healthcare distribution. So the 6        wholesaler distributor of medicines, that 7        organization. 8        The award offers different 9        categories for both the brand and generic 10       companies and brand and generic product. 11       Q. And you included it on your 12       resumé because you were in charge of the 13       launch of oxymorphone ER; is that right? 14       A. It was in my group, yeah, so 15       we managed the launch of the product. 16       Q. On the next page of your 17       resumé, you have listed for the years 18       2005 and 2006, marketing manager for U.S. 19       human pharmaceuticals at Alpharma. 20       Do you see that? 21       A. Yes. 22       Q. Okay. And it states here 23       that you conducted a variety of market 24       research.</p>
<p style="text-align: right;">Page 35</p> <p>1        Do you see that? 2        A. Yes. 3        Q. Using IMS, Wolters Kluwer, 4        and MediSpan. 5        Do you see that? 6        A. Yes. 7        Q. What type of market research 8        were you conducting at that time? 9        A. So these are second degree 10       market research using the data provided 11       by these firms IMS, Wolters Kluwer, and 12       MediSpan. I don't remember specific 13       research. But typically the research 14       I've done at Alpharma was about the, you 15       know, industry trend, product-specific 16       movement, product-specific change, 17       different, you know, dosage forms, and 18       how companies -- in the company's 19       portfolio. 20       So typically of that nature, 21       the volumes of particular products, the 22       sales. 23       Q. And what is the 24       difference -- what does the IMS data</p>	<p style="text-align: right;">Page 36</p> <p>1        that -- what does that data show you? 2        A. So IMS -- it depends on the 3        subscription you have. Typically it 4        would have the sales dollar, the volume 5        by strength, by NDC, by prescription 6        numbers, and in multiple years. That's 7        the kind of data we purchased. 8        MS. BAIG: We can go off the 9        record for a moment. 10       THE VIDEOGRAPHER: Going off 11       the record at 9:50. 12       (Short break.) 13       THE VIDEOGRAPHER: We are 14       going back on record. Beginning 15       of Media File 4. The time is 16       9:55. 17       BY MS. BAIG: 18       Q. So you testified that the 19       IMS data allows you to track sales 20       dollars, volume of sales by strength and 21       by NDC, correct? 22       A. Yes. 23       Q. Okay. And it allows you to 24       do that for all of the sales to your</p>

1 customers?  
 2 MR. MAIER: Objection to  
 3 form.  
 4 THE WITNESS: It's sales for  
 5 the entire U.S. market. For every  
 6 product that IMS obtains data for.  
 7 BY MS. BAIG:  
 8 Q. So it allows you to track  
 9 the sales not only for your customers,  
 10 but also for your competitors' customers,  
 11 correct?  
 12 MR. MAIER: Objection to  
 13 form.  
 14 THE WITNESS: IMS sales,  
 15 yes.  
 16 BY MS. BAIG:  
 17 Q. What do you mean by IMS  
 18 sales?  
 19 A. IMS has its own methodology  
 20 to collect data and project data in their  
 21 own, you know, with their proprietary  
 22 methodology. That's not the same as the  
 23 company's reported sales.  
 24 Q. How is it different?

1 MR. MAIER: Objection to  
 2 form.  
 3 MS. VENTURA: Objection.  
 4 THE WITNESS: No. Not even  
 5 what we have. We do not have the  
 6 ability to -- the pharmacy level  
 7 data either. We have just  
 8 national aggregate, no regional  
 9 data.  
 10 BY MS. BAIG:  
 11 Q. Through IMS?  
 12 A. Yes.  
 13 Q. So if IMS did not give you  
 14 pharmacy level data, what data is it  
 15 actually, is it providing the data for  
 16 the wholesalers?  
 17 MR. MAIER: Objection to  
 18 form.  
 19 THE WITNESS: So the data we  
 20 purchased provide the total U.S.  
 21 market data. So as a country,  
 22 total sales, total volumes for a  
 23 particular drug.  
 24 BY MS. BAIG:

1 A. So IMS has -- so from a  
 2 practical point of view, IMS sales  
 3 captures the pharmacy -- what a pharmacy  
 4 paid to where they get the product from.  
 5 And we have to keep in mind that the data  
 6 is not 100 percent, -- it's not collected  
 7 100 percent. So IMS uses their own  
 8 methodology to project to the 100 percent  
 9 of the market.  
 10 Q. I see. And this data, does  
 11 that allow you to -- generally to track  
 12 market share?  
 13 A. Yes.  
 14 Q. And to track highest  
 15 prescribers?  
 16 MS. VENTURA: Objection to  
 17 form.  
 18 THE WITNESS: So the data  
 19 generic use, we do not get data by  
 20 prescriber. Only the national  
 21 level aggregated data.  
 22 BY MS. BAIG:  
 23 Q. So only to the pharmacy  
 24 level, is that what you're saying?

1 Q. I see. And if you wanted to  
 2 see -- at any point were you tracking  
 3 your downstream customers, were you  
 4 tracking the sales of, say, various  
 5 pharmacies?  
 6 MR. MAIER: Objection to  
 7 form.  
 8 MS. VENTURA: Objection to  
 9 form.  
 10 THE WITNESS: That data was  
 11 not available. Or at least the  
 12 data we purchased did not contain  
 13 such data.  
 14 BY MS. BAIG:  
 15 Q. From IMS?  
 16 A. From IMS.  
 17 Q. Okay. Was that data  
 18 available to you through any other means?  
 19 A. The pharmacy level would be  
 20 available through our internal chargeback  
 21 data, if that chargeback data was  
 22 available.  
 23 Q. And so the chargeback data  
 24 would be able to show -- would be able to

1 track the pill from Actavis all the way  
 2 to the pharmacy; is that right?  
 3 MR. MAIER: Objection to  
 4 form.  
 5 MS. VENTURA: Objection to  
 6 form.  
 7 THE WITNESS: So maybe I  
 8 should explain the chargeback. So  
 9 the chargeback data was provided,  
 10 submitted by the wholesalers to  
 11 Actavis. Only to the extent the  
 12 data was submitted that Actavis  
 13 would have that data.  
 14 BY MS. BAIG:  
 15 Q. And were you receiving IMS  
 16 data for the entire time that you were at  
 17 Alpharma and Actavis?  
 18 A. Yes.  
 19 Q. And were you receiving  
 20 chargeback data for the entire time that  
 21 you were at Alpharma and Actavis?  
 22 A. The company received  
 23 chargeback data.  
 24 Q. Did you have access to that

1 detail, which price list?  
 2 A. So MediSpan would have this  
 3 called WAC list for -- basically for all  
 4 the products on the market.  
 5 Q. Okay. And what -- generally  
 6 when you say that you were conducting a  
 7 variety of market research, were you  
 8 creating documents to show trends or what  
 9 were you doing with the -- this data as  
 10 you looked at it?  
 11 A. I don't remember exactly the  
 12 project I did with -- with regard to  
 13 market research.  
 14 Q. But generally speaking?  
 15 A. Generally we would look at,  
 16 I would look at the -- for example, the  
 17 company market share and how the market  
 18 share has changed over time.  
 19 I would be looking at the  
 20 products, certain product, and see how  
 21 the product is performing and trending.  
 22 And then -- and I would typically look at  
 23 how the competitors -- how the  
 24 competitors are doing, were doing, and

1 chargeback data?  
 2 A. Yes.  
 3 Q. And what was the Wolters  
 4 Kluwer data that you were -- that the  
 5 company was receiving at that time?  
 6 A. Wolters Kluwer was similar  
 7 to IMS, just a different company.  
 8 Presumably have different methodology.  
 9 Q. Why would you purchase both  
 10 Wolters Kluwer and IMS data, what was  
 11 the -- what was the difference in terms  
 12 of the data that you actually received,  
 13 what was the benefit to getting both?  
 14 A. So they are competitors.  
 15 Getting different data could -- would  
 16 allow us to have a more accurate view of  
 17 the market because they each use their  
 18 different methodology, presumably  
 19 different data collection to assess the  
 20 market.  
 21 Q. What was the MediSpan data?  
 22 A. MediSpan has the list, the  
 23 price list for product.  
 24 Q. Can you explain that in more

1 how they were changing as well. And then  
 2 there were different therapeutic areas to  
 3 see how the different products within the  
 4 therapeutic categories were performing.  
 5 That would be a fairly typical market  
 6 research.  
 7 (Document marked for  
 8 identification as Exhibit  
 9 Allergan-McCormick-2.)  
 10 BY MS. BAIG:  
 11 Q. We'll have this marked as  
 12 Exhibit 2.  
 13 This document, which is  
 14 Bates-stamped Acquired\_Actavis\_0064252  
 15 through 4255. And this appears to be a  
 16 performance evaluation for you from 2009.  
 17 Do you see that?  
 18 A. Yes.  
 19 Q. And did you see this through  
 20 the course of your regular business at  
 21 Actavis?  
 22 A. Yes.  
 23 Q. Was this a self-performance  
 24 evaluation?

1 A. So the -- this is a typical  
2 company performance evaluation starting  
3 with self-appraisal first.

4 Q. And it states here, if you  
5 look at the third page of the total  
6 document, that there was a -- it says  
7 product sales of \$520 million.

8 Do you see that?

9 A. Yes.

10 Q. Was that a target?

11 A. Yes.

12 Q. And had that been your  
13 target for 2009?

14 A. So that's the budget.

15 Q. Okay. Did you have a  
16 target, a target in terms of sales for  
17 2009?

18 A. So the -- so this is a part  
19 of my -- one of my objectives, to achieve  
20 the sales for the portfolio generic  
21 products that I was responsible for. So  
22 that's -- for generic, it's the same as  
23 mine.

24 Q. And so was your target

1 \$430 million for that year?

2 A. Where is the 400?

3 Q. I'm looking just a little  
4 further down on the right-hand side. It  
5 says, "Achieved estimated \$430 million in  
6 sales."

7 A. I see.

8 Q. And I'm just wondering if  
9 that -- where does it show on this  
10 document what your target actually was  
11 and whether you achieved it?

12 A. Okay. So you rightly said  
13 the budget is \$520 million for the year.  
14 And that's the company's budget for the  
15 generic product. What the company  
16 achieved was the \$430 million in sales  
17 roughly by the end -- it says estimate, I  
18 think, because this is probably not  
19 finalized yet.

20 Q. And it says, "\$430 million  
21 achieved and \$231 million in GP for  
22 fiscal year 2009."

23 What is the 231 referring  
24 to?

1 A. That's the gross profit.

2 Q. And do you see under Item 2  
3 there it says, "Successfully managed the  
4 oxycodone CR launch to surpass  
5 expectation of \$105 million"?

6 A. Yes, I saw that.

7 Q. And so was 105 -- my  
8 question to you is did you have a target  
9 that you were trying to achieve?

10 MS. VENTURA: Objection to  
11 form.

12 THE WITNESS: I did not have  
13 product-specific target.

14 BY MS. BAIG:

15 Q. Okay.

16 A. I have -- so as a  
17 performance evaluation were my own  
18 objective for the year, it's everything,  
19 all the different objectives in this  
20 document. So sales, as a portfolio, not  
21 any individual product.

22 Q. So if you go back up to  
23 Objective 1, Item 4, it says, "Monitor  
24 performance versus targets." I'm just

1 trying to find out how you received your  
2 targets.

3 A. Oh, so the target meaning  
4 the budget.

5 Q. So staying within budget?

6 A. So it's interchangeable.  
7 Used in this sense, the target was the  
8 budget, and the budget was the 520.

9 Q. I see. So your target was  
10 520. And where it shows -- so your  
11 target was 520. Did you meet that  
12 target?

13 MR. MAIER: Objection to  
14 form.

15 THE WITNESS: So 430, of  
16 course, was less than 520.

17 BY MS. BAIG:

18 Q. You didn't quite meet the  
19 target. Okay.

20 However, it states in Item 2  
21 that you exceeded target market share and  
22 sales upon relaunch of oxycodone,  
23 fentanyl, buprenorphine XL, and new  
24 launch of levetiracetam syrup and several

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1 AG products from Galderma; is that right?

2 A. Yes.

3 Q. And what does that mean

4 exactly?

5 A. So for a year-end

6 performance appraisal, even though the

7 total number was not achieved, there

8 was -- I guess these are -- were the

9 performance that was highlighted. And so

10 target were not achieved for a number of

11 reasons. There are all different kinds

12 of reasons that could prevent achievement

13 of companywide budget.

14 Q. And looking to the next

15 page. It states as Objective 3 that

16 Objective 3 was to, "Improve the brand

17 image and trust in Actavis-labeled

18 products."

19 Do you see that?

20 A. Yes.

21 Q. And under that it states,

22 one, "Improve/refresh brand image,

23 advertising campaign working with

24 agency."

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1 your generic products, correct?

2 MS. VENTURA: Objection to

3 form.

4 THE WITNESS: It included

5 generic products.

6 BY MS. BAIG:

7 Q. Including generic opioids?

8 A. So every -- so all the

9 products were, you know, managed by this

10 agency.

11 Q. Okay. Including the generic

12 opioids?

13 A. Yes.

14 Q. Okay. And you don't recall

15 the name of the agency?

16 A. I don't. It also changed

17 sometime while I was there too.

18 Q. Do you recall any such

19 agencies that you worked with while you

20 were there?

21 A. I don't because I have

22 people who manage them on a day-to-day

23 basis.

24 Q. And who are those people?

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1 What agency were you working

2 with?

3 A. I don't remember the name of

4 agency. I know it's a small agency.

5 Q. It was an advertising

6 agency?

7 A. Yes.

8 Q. And was it an advertising

9 agency to help you promote your generic

10 products, including your generic opioids?

11 MS. VENTURA: Objection to

12 form.

13 MR. MAIER: Objection to

14 form.

15 THE WITNESS: It's an agency

16 to help us to manage our entire

17 advertising activities which

18 include the creation of the

19 material as well as the --

20 contacting media, to, you know,

21 place the material in the right

22 channel.

23 BY MS. BAIG:

24 Q. Okay. And it did so for

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1 A. David Meyers.

2 Q. Anyone else?

3 A. David Meyers was the main

4 person who managed the agency

5 relationship and promotion and

6 advertising.

7 Q. The company would have had a

8 contract with that agency, correct?

9 MR. MAIER: Objection to

10 form.

11 THE WITNESS: I would think

12 so.

13 BY MS. BAIG:

14 Q. And would that company have

15 assisted you with the creation of, for

16 example, sizzle slides or was that

17 something that was done internally?

18 A. Sizzle slide, I think it

19 would be done internally.

20 Q. Okay.

21 A. At least typically.

22 Q. And what is a sizzle slide

23 exactly?

24 A. That's just a term that Mike



<p style="text-align: right;">Page 53</p> <p>1 Perfetto liked using. Normally just</p> <p>2 referred to a one-page summary.</p> <p>3 Q. Summary of the product that</p> <p>4 you're trying to sell?</p> <p>5 A. It doesn't have to be</p> <p>6 product specific. It could be typically</p> <p>7 whatever the update that we wanted to</p> <p>8 provide to customers.</p> <p>9 Q. In order -- the purpose</p> <p>10 being to try to grow sales, correct?</p> <p>11 A. Of course.</p> <p>12 Q. It also says, next to the</p> <p>13 reference to the sizzle slide, "Company</p> <p>14 presentation was updated quarterly."</p> <p>15 What company presentation is</p> <p>16 being referred to here?</p> <p>17 A. The -- actually, it's a</p> <p>18 company presentation we typically</p> <p>19 presented to customers during the</p> <p>20 customer meetings.</p> <p>21 Q. And who would do those</p> <p>22 presentations to customers during</p> <p>23 customer meetings?</p> <p>24 A. The presentations were</p>	<p style="text-align: right;">Page 54</p> <p>1 typically presented by either the sales</p> <p>2 team or myself or Mike, depending on who</p> <p>3 were at the meeting.</p> <p>4 Q. And were they product</p> <p>5 specific?</p> <p>6 A. The company presentation</p> <p>7 typically was not product specific.</p> <p>8 Q. It was just about company,</p> <p>9 the company?</p> <p>10 A. Yeah.</p> <p>11 Q. What types of things about</p> <p>12 the company were in it?</p> <p>13 A. Typically the company's</p> <p>14 capability, overviews, maybe even</p> <p>15 financial performance of the last year,</p> <p>16 just general company information.</p> <p>17 Q. And the next item in that</p> <p>18 same box references, "Advertising in</p> <p>19 E-newsletter has increased and received</p> <p>20 favorable feedback."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Were you responsible for</p> <p>24 creating advertising in E-newsletters for</p>
<p style="text-align: right;">Page 55</p> <p>1 opioid products?</p> <p>2 A. So agency created, you know,</p> <p>3 any of -- all material -- all of our</p> <p>4 material.</p> <p>5 Q. Did you review them once the</p> <p>6 agency created them?</p> <p>7 A. I did.</p> <p>8 Q. The next reference in that</p> <p>9 block is to, "Inviting customers to tour</p> <p>10 our plants"?</p> <p>11 A. Yes.</p> <p>12 Q. Can you talk a little bit</p> <p>13 about -- about what that was and how that</p> <p>14 fit into the marketing plan?</p> <p>15 MR. BAILEY: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: For a customer</p> <p>18 to see our manufacturing plant, it</p> <p>19 gave them a real-life experience,</p> <p>20 how the manufacturing were</p> <p>21 conducted and talked to the people</p> <p>22 who were in the plant to</p> <p>23 understand -- that customer</p> <p>24 understand how, you know, people</p>	<p style="text-align: right;">Page 56</p> <p>1 in the front line feel about</p> <p>2 they're work, what they do, the</p> <p>3 process and procedures.</p> <p>4 So it's to help -- to help</p> <p>5 customers to feel, you know, that</p> <p>6 we are a very responsible company,</p> <p>7 how we conduct our business. It</p> <p>8 is overall, I would say just to</p> <p>9 enhance the company's image and</p> <p>10 credibility.</p> <p>11 BY MS. BAIG:</p> <p>12 Q. And who would talk with the</p> <p>13 customers during those tours?</p> <p>14 A. So typically is one of those</p> <p>15 plant head or supply team managers,</p> <p>16 manufacturing leaders, based on their</p> <p>17 schedule too.</p> <p>18 Q. Would you be involved in</p> <p>19 those tours as well?</p> <p>20 A. I could. I don't go all the</p> <p>21 time. I didn't go all the time.</p> <p>22 Q. Would there typically be</p> <p>23 somebody from the marketing department on</p> <p>24 those tours?</p>

1 A. Typically there were people  
2 from sales. Could be from marketing.  
3 Depends on, you know, who -- who were  
4 available at that time.

5 Q. The next item references  
6 that "brand image advertising have not  
7 rolled out yet." Do you see that?

8 A. Yeah.

9 Q. And who was responsible for  
10 creating the brand image advertising for  
11 opioid products?

12 MS. VENTURA: Objection to  
13 form.

14 THE WITNESS: So I want  
15 to -- the brand imaging -- this  
16 brand is referring to Actavis, the  
17 company brand. It's not an opioid  
18 brand.

19 BY MS. BAIG:

20 Q. I see.

21 A. Yeah.

22 Q. And so who was responsible  
23 for creating the brand image advertising  
24 for the company?

1 A. I assume over the course of  
2 my working there many years there were  
3 those cases too.

4 Q. Okay. And --

5 A. Can I make one thing -- you  
6 asked me earlier about the name of the  
7 agency. I see one here, R&J. I guess  
8 that was one of them. Just --

9 Q. Where do you see that?

10 A. On the right hand,  
11 Objective 3, end-of-year comments.

12 Q. Does R&J stand for  
13 something, or is that the name of the  
14 advertising company?

15 A. It's the name of the  
16 advertising agency that was dissolved of  
17 course. So we changed to a new one.

18 Q. When was it dissolved  
19 roughly, do you know?

20 A. I don't remember  
21 specifically, but probably during the  
22 2009.

23 Q. And do you recall who you  
24 used after that?

1 A. That would be David working  
2 with the agency.

3 Q. David Meyers?

4 A. Yes.

5 Q. Did you meet with customers  
6 on a regular basis?

7 A. Yes.

8 Q. What types of customers did  
9 you meet with?

10 A. Our typical customers,  
11 wholesalers, retail chains.

12 Q. And where and how did you  
13 meet with them, did you meet with them at  
14 trade shows, did you set up individual  
15 meetings with them, what did that process  
16 look like?

17 MR. BAILEY: Objection to  
18 form.

19 THE WITNESS: Typically I  
20 met them at the trade shows or the  
21 large meetings.

22 BY MS. BAIG:

23 Q. And did you have smaller  
24 meetings with them as well?

1 A. I don't.

2 Q. Do you recall who you worked  
3 with at R&J?

4 A. So David Meyers worked with  
5 them directly. I just really don't  
6 remember the, you know, people he worked  
7 with.

8 Q. A little further down in  
9 that same box it references a photography  
10 project of all product images, in parens,  
11 tablet, pills -- tablets, pills, near  
12 completion.

13 Do you remember that  
14 photography project?

15 A. Yes.

16 Q. What was that about?

17 A. We -- it's really just a  
18 photograph of all the product images, the  
19 actual pills and tablets for -- we were  
20 looking to get all of that in a catalogue  
21 or -- excuse me -- just do better  
22 categorize them, catalogue them.

23 Q. Were those photographs used  
24 for advertisements?

1 A. Typically not.

2 Q. So they were used for an  
3 internal cataloguing system?

4 A. The intention was I think to  
5 use both internally and externally.

6 Q. How would you use it  
7 externally?

8 A. So product, there were --  
9 there were companies that collect product  
10 image as identification. So they would  
11 want the product image of all the  
12 products.

13 How do I explain this?

14 When you have -- when you  
15 look at the medicine you get from  
16 pharmacy, that could be identification,  
17 embossing, or printing on the pill, the  
18 size and the color of the pill for  
19 identification so you make sure you got  
20 the right medication. And so this  
21 company supply, basically collect all of  
22 the images and then, you know, just  
23 really for pharmacy and patient use.

24 Q. I see.

1 (Document marked for  
2 identification as Exhibit  
3 Allergan-McCormick-3.)

4 BY MS. BAIG:

5 Q. Let's have this document  
6 marked as Exhibit 3.

7 This is a document Bates  
8 stamped Acquired\_Actavis\_00185283 through  
9 85289.

10 And it appears to be a  
11 similar type of performance evaluation  
12 but for 2010. Do you see that?

13 A. Yes.

14 Q. And you saw this in the  
15 course of your regular business at  
16 Actavis?

17 A. Yes.

18 Q. And where we looked before  
19 of the -- at the estimated target of  
20 \$520 million, is that analogous to the  
21 estimated target here that appears to be  
22 \$477.5 million?

23 MR. MAIER: Objection to  
24 form.

1 THE WITNESS: This is the  
2 budget sales.

3 BY MS. BAIG:

4 Q. This is analogous to the  
5 same figure that we looked at earlier  
6 which was at \$520 million product sales,  
7 correct?

8 MR. MAIER: Objection to  
9 form.

10 THE WITNESS: Yes.

11 BY MS. BAIG:

12 Q. Okay. And I think you said  
13 that the -- the budget was the same as  
14 your target?

15 A. Yes.

16 Q. Correct? Okay.

17 So is your target going down  
18 from \$520 million to \$477.5 million; is  
19 that right?

20 A. So when we do budget we  
21 didn't look at this way. We were just  
22 building our product and roll up to the  
23 budget. So, of course, 477 is less than  
24 530.

1 Q. Do you recall why it went  
2 down?

3 A. As I explained, when we  
4 did -- when we did the budget for the  
5 following year, we would look at existing  
6 product, look at the new product, and  
7 build up for each product what the  
8 reasonable performance might be and add  
9 them up, roll up to a total.

10 Q. Okay. And in 2009, we had  
11 an achieved estimated \$430 million in  
12 sales, and in 2010 we have generic net  
13 sales of \$441 million; is that right?

14 A. Not -- correct. Because  
15 this is -- the 441 is year-to-date  
16 November 19th. It was not a full year  
17 sales.

18 Q. I see. So the full year  
19 sales would likely be higher than  
20 \$441 million then?

21 A. Yes.

22 Q. And your primary objective  
23 as set forth here was to maximize revenue  
24 and profit of prescription products; is

1 that right?

2 MS. GERMANO: Objection.

3 THE WITNESS: That's the --

4 one of the objectives.

5 BY MS. BAIG:

6 Q. It's Objective Number 1,

7 correct?

8 A. That's correct.

9 Q. Did you receive bonus income

10 when you worked at Alpharma and Actavis?

11 A. I did receive bonus.

12 Q. Okay. And what was the

13 bonus structure of your compensation

14 like?

15 A. There was base. There was

16 annual bonus. And then depending on time

17 frame, later on I received long-term

18 incentive plan too.

19 Q. And roughly what was your

20 base salary when you worked there?

21 A. Which time frame?

22 Q. Well, where did it start and

23 where did it end up roughly? I know

24 you're not going to remember specific

1 when you left?

2 A. I don't. I don't remember

3 those specific numbers, because they

4 change.

5 Q. Do you remember generally?

6 A. I -- so when I first

7 started, it was somewhere between 10 to

8 15 percent. That's the target bonus.

9 Then when I left, so I know the last year

10 was 25 percent. Again, that's the target

11 annual bonus.

12 Q. And did you receive the

13 target bonus? Do you know?

14 A. I think some years we did,

15 and other years I did not.

16 Q. And --

17 A. I mean, difference in years.

18 Q. Do you recall receiving a

19 bonus every year, though?

20 A. Yes.

21 Q. What was your long-term

22 incentive plan?

23 A. That was towards the end

24 in -- I mean during my years at Actavis,

1 dollar amounts, but --

2 A. I know it's over 100 when I

3 started. When I left last year -- I'm

4 talking about base, right?

5 Q. Mm-hmm.

6 A. When I left, I know it was

7 over 140. But I don't remember exactly

8 number.

9 Q. And what was your average

10 bonus during those years or how did it

11 change over the years?

12 A. It changed over the years

13 because I was -- I had increasingly more

14 responsible position. So it changed over

15 the years. It also depended upon, of

16 course, company's performance. I don't

17 know how to come up with average.

18 Q. So when you started, do you

19 recall roughly what your bonuses were in

20 the earlier years?

21 MS. GERMANO: Objection.

22 Foundation.

23 BY MS. BAIG:

24 Q. And roughly what they were

1 it was a private company. So roughly

2 it's about three-year payout. Every year

3 I received some, and then after the first

4 three years there was a payout of certain

5 percentages.

6 Q. And what were roughly those

7 percentages?

8 A. So -- so a percentage got

9 paid out of the plan. It depends on the

10 company's performance. I don't remember

11 specifics.

12 Q. But do you remember how much

13 generally you received, whether it was

14 comparable to your entire salary or a

15 percentage of it, or roughly what it

16 looked like?

17 MS. GERMANO: Objection to

18 form.

19 THE WITNESS: I don't

20 remember specific, but I -- for

21 example, I remember one year it

22 was -- I don't know -- it was 100,

23 roughly \$100,000.

24 BY MS. BAIG:

1 Q. Do you remember what year  
2 that was?

3 A. No, I don't.

4 Q. Do you remember whether it  
5 was closer to the 2008 time frame or the  
6 2013 time frame?

7 A. It's closer to 2013, not  
8 2008. I think probably the program  
9 started in 2008 or '9.

10 Q. So that year you would have  
11 received your base salary plus your  
12 target bonus, or whatever bonus they gave  
13 to you in the 15 to 25 percent range or  
14 10 to 25 percent range, and on top of  
15 that you would have received the  
16 long-term incentive bonus?

17 MS. GERMANO: Objection to  
18 form.

19 MR. MAIER: Objection to  
20 form.

21 THE WITNESS: Which year are  
22 you referring to?

23 BY MS. BAIG:

24 Q. The year that you received

1 the long-term incentive bonus?

2 MS. GERMANO: Objection to  
3 form.

4 THE WITNESS: Yes. That  
5 would be the three components.

6 BY MS. BAIG:

7 Q. That would be the three  
8 components that you would have received  
9 for that year; is that right?

10 A. For that year, that's  
11 correct.

12 Q. And do you remember how many  
13 years you received a long-term incentive  
14 bonus on top of the target bonus and the  
15 annual salary?

16 A. Not many years because the  
17 program started -- I don't know -- 2008  
18 or '9, and then there was three years --  
19 it was three years till the first payout.  
20 And then --

21 Q. So your first payment --  
22 payout would have been either 2011 or  
23 2012?

24 A. That's correct.

1 Q. And then did you receive  
2 payouts each year until you left the  
3 company?

4 A. I left the company beginning  
5 of 2013.

6 Q. Right. So it could have  
7 been '11, '12 -- '11 and '12, I suppose?

8 A. Could be.

9 Q. Did you receive more than  
10 one long-term incentive payout?

11 A. Yeah.

12 Q. And those long-term  
13 incentive payouts were contingent on  
14 what? What was your understanding of  
15 what you had to do in order to receive  
16 them?

17 A. Those were contingent upon  
18 the total company performance, both the  
19 sales and EBITDA.

20 Q. And so it was your  
21 understanding that you would have to grow  
22 sales for your portfolio in order to  
23 contribute to your being able to receive  
24 a long-term incentive plan?

1 MS. GERMANO: Objection to  
2 form.

3 MR. MAIER: Objection to  
4 form.

5 BY MS. BAIG:

6 Q. Is that right?

7 A. I mean, it's everyone's job  
8 to grow the company's business.

9 (Document marked for  
10 identification as Exhibit  
11 Allergan-McCormick-4.)

12 BY MS. BAIG:

13 Q. We'll have this document  
14 marked as Exhibit 4, please.

15 This document is  
16 Bates-stamped ACTAVIS\_481204 through  
17 481210. And again, it appears to be a  
18 performance evaluation, correct?

19 A. Yes.

20 Q. And you received this or saw  
21 this in the regular course of your  
22 business at Actavis, correct?

23 A. Correct.

24 Q. And this is your performance



1 evaluation for the year 2011; is that  
2 right?

3 A. Appears so.

4 Q. And here we see that the  
5 target is increasing from what was  
6 \$477.5 million in 2010 to \$535 million in  
7 2011; is that right?

8 MR. MAIER: Objection to  
9 form.

10 THE WITNESS: That's the  
11 budget, yes.

12 BY MS. BAIG:

13 Q. And under completion  
14 criteria, it says, "Achieve 2011 budget,  
15 generic product sales of \$535 million,"  
16 correct?

17 A. It was on track to achieve  
18 the budget.

19 Q. Okay. So does that -- does  
20 this state that it did achieve or -- or  
21 just that it's on track?

22 A. It said it was on track,  
23 because this was in November.

24 Q. I see.

1 A. So it had November sales.

2 Q. I see. And the weight  
3 assigned to this particular goal is  
4 30 percent; is that right?

5 A. That's correct.

6 Q. Do you see at the bottom of  
7 the end of your comments it says, "Kept  
8 marketing expense below the budget  
9 despite multi-channel marketing effort in  
10 oxymorphone ER"?

11 A. Yes, I saw that.

12 Q. And what is that referring  
13 to, the multi-channel marketing effort in  
14 oxymorphone ER? Can you discuss that?

15 A. So oxymorphone ER was  
16 generic Opana ER. It was first to  
17 market, first generic product to enter  
18 the market to launch. And so typically  
19 we do not do a lot of marketing for  
20 generic products because of business  
21 model. And this one, we had to do more  
22 than so-called typical, just to make  
23 physicians and the pharmacists aware of  
24 the introduction of a generic alternative

1 to the brand. So it's awareness  
2 marketing.

3 Q. How many people were in your  
4 marketing department?

5 A. So my group had, I'm trying  
6 to think. David Meyers, something --  
7 probably four.

8 Q. David Meyers, yourself and  
9 who else?

10 A. Rachelle Galant and Violet  
11 and Karen Stoddart.

12 Q. What was Violet's position?

13 A. She was analyst. Either  
14 sales or -- either sales or marketing  
15 analyst.

16 Q. So typically you didn't do a  
17 lot of marketing for generic products, I  
18 think is what you testified. But you had  
19 an entire marketing department dedicated  
20 to marketing of generic products,  
21 correct?

22 MS. GERMANO: Objection to  
23 form.

24 MR. MAIER: Objection to

1 form.

2 THE WITNESS: So when I say  
3 marketing department, it includes  
4 our primary responsibility was  
5 product management, plus the  
6 company brand image promotion.

7 BY MS. BAIG:

8 Q. Your title was director of  
9 marketing, correct?

10 A. Yeah, mm-hmm.

11 Q. Okay. What were the  
12 multi-channel marketing efforts that were  
13 undertaken in connection with oxymorphone  
14 ER that are referenced here?

15 A. So multi-channel means it's  
16 print, digital. So typically it just  
17 refers to those.

18 Q. Anything else?

19 A. No. We don't do TV.

20 Q. Does the multi -- do the  
21 multi-channel marketing efforts here  
22 include the advertising agencies that you  
23 were working with?

24 A. Yeah. The agency created

<p style="text-align: right;">Page 77</p> <p>1 all the materials we need for these</p> <p>2 activities.</p> <p>3 Q. Do you see a little further</p> <p>4 down under end-of-year comments, it</p> <p>5 states, "In addition to midyear comments,</p> <p>6 my group is instrumental in the</p> <p>7 implementation of Oxycodone SOP and</p> <p>8 ensuring what we do protects the interest</p> <p>9 of the patients and the company."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And it goes on to state,</p> <p>13 "Also contributed significantly to the</p> <p>14 development and refinement of our SOM</p> <p>15 system"?</p> <p>16 A. I saw that.</p> <p>17 Q. What was your involvement</p> <p>18 in developing the SOM system?</p> <p>19 MS. VENTURA: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: I was working</p> <p>22 with Nancy Baran who was the head</p> <p>23 of customer service, and legal and</p> <p>24 IT, to enhance and -- and refine a</p>	<p style="text-align: right;">Page 78</p> <p>1 very sophisticated suspicious</p> <p>2 order monitoring system.</p> <p>3 So I participated from the</p> <p>4 very start until the -- actually</p> <p>5 execution of the system.</p> <p>6 BY MS. BAIG:</p> <p>7 Q. And when was the -- the very</p> <p>8 start?</p> <p>9 A. I mean the start of the</p> <p>10 project itself. We had a team to work,</p> <p>11 specifically work on enhancing the</p> <p>12 system.</p> <p>13 I don't remember a specific</p> <p>14 date. Is that what you're asking?</p> <p>15 Q. Is it -- what were the</p> <p>16 enhancements that you recall working on?</p> <p>17 A. Actually there were very</p> <p>18 good enhancement for the -- for the</p> <p>19 system. I remember the -- the system</p> <p>20 became more automated. It was a more</p> <p>21 defined process. It was a greater</p> <p>22 clarity, you know, what needs to be done</p> <p>23 and how we do it as a company. So lots</p> <p>24 of enhancement to really perfect the</p>
<p style="text-align: right;">Page 79</p> <p>1 system and make it an industry</p> <p>2 cutting-edge SOM system.</p> <p>3 Q. And when you say it was more</p> <p>4 automated, who was responsible for</p> <p>5 implementing the automation of the SOM</p> <p>6 system?</p> <p>7 A. So we have IT, we have</p> <p>8 consultant, who provided guidance or</p> <p>9 input. We also worked the -- with</p> <p>10 internal IT folks to enhance our own</p> <p>11 system.</p> <p>12 Additionally, we brought in</p> <p>13 outsider -- outside like ValueTrak to</p> <p>14 enhance our -- our own system.</p> <p>15 Q. And when you say it was</p> <p>16 automated, does that mean that it would</p> <p>17 be an automatic system that would flag</p> <p>18 orders of interest if they were above the</p> <p>19 50 percent threshold for the six-month</p> <p>20 average, is that what you're talking</p> <p>21 about?</p> <p>22 MS. VENTURA: Objection,</p> <p>23 mischaracterizes the testimony.</p> <p>24 MR. MAIER: Objection to</p>	<p style="text-align: right;">Page 80</p> <p>1 form.</p> <p>2 MS. BAIG: This is a</p> <p>3 question. Don't coach the witness</p> <p>4 please. It's just a question.</p> <p>5 MS. VENTURA: I'm allowed to</p> <p>6 put my objection in --</p> <p>7 MS. BAIG: Yeah, but you're</p> <p>8 not allowed to coach the witness.</p> <p>9 It doesn't mischaracterize any</p> <p>10 testimony. It doesn't purport to</p> <p>11 state prior testimony. It's</p> <p>12 simply a question.</p> <p>13 BY MS. BAIG:</p> <p>14 Q. You can answer.</p> <p>15 A. So the -- it's not that</p> <p>16 simple of a threshold to understand</p> <p>17 the -- the automation is just the first</p> <p>18 step, was the building algorithm to flag</p> <p>19 the order of the interest.</p> <p>20 So it's not a 25 or 50, not</p> <p>21 any just threshold. But patterns, or</p> <p>22 frequencies. There's actually a very</p> <p>23 sophisticated algorithm to build in to</p> <p>24 flag the order of interest.</p>

1 Q. What was the sophisticated  
2 algorithm?  
3 A. I mean I don't know the --  
4 it was available. I don't remember  
5 personally.  
6 Q. Who would know that? If you  
7 wanted to know, who would you ask what  
8 the sophisticated algorithm was?  
9 A. It -- it was written as --  
10 so IT folks would know them, because it  
11 needs to be built into the system.  
12 Q. Okay.  
13 A. Yeah.  
14 Q. Do you know what IT folks  
15 would know that; if you wanted to ask  
16 somebody, who would you ask now?  
17 A. The IT head at that time was  
18 Bill Ostrowski, and then there were  
19 people in his group who worked on the  
20 specific implementation of the -- of the  
21 system.  
22 Q. But you can't tell me about  
23 the sophisticated algorithm in any  
24 detail; is that right?

1 Q. I'm looking at --  
2 MS. GERMANO: Objective --  
3 BY MS. BAIG:  
4 Q. -- end-of-year comments  
5 here, and it's discussing -- on the  
6 left-hand side, it says, "Developed  
7 product specific ads for oxymorphone,  
8 methylphenidate," do you see that?  
9 A. Oh, I see.  
10 Q. And then it says --  
11 A. On the second page --  
12 Q. -- "Corporate ad tree is  
13 done. Another one is in development."  
14 A. Okay.  
15 Q. Do you see that?  
16 A. Yes, I saw that.  
17 Q. Okay. And then on the  
18 right-hand side it says, "This year we  
19 created new ads for oxymorphone," and it  
20 goes on, correct?  
21 A. Yes. I saw that.  
22 Q. And then it says,  
23 "Additionally the fentanyl ad has  
24 received a model" -- "a remodel."

1 A. I am not expert in IT. I  
2 know in principle, those are the  
3 considerations to build the algorithm.  
4 Q. Do you know what the  
5 corporate awareness ad, quote-unquote,  
6 tree is? Halfway down the page on, what  
7 are we at, 207?  
8 A. Oh, tree is an image of a  
9 tree.  
10 Q. And bird?  
11 A. Because there were different  
12 images, this was just referring to one of  
13 those image.  
14 Q. And these were images in the  
15 advertisements for fentanyl; is that  
16 right?  
17 A. That's not correct.  
18 Q. For -- oh. "This year we  
19 created new ads for oxymorphone,  
20 methylphenidate, amphetamine combo,  
21 buprenorphine naloxone, and clobetasol  
22 lotion and shampoo"; is that right?  
23 A. Which one are you looking  
24 at?

1 Do you see that?  
2 A. Oh, I see.  
3 Q. Okay.  
4 A. Yeah.  
5 Q. Okay. And then it goes on  
6 to state, "The corporate awareness ad  
7 'tree' has been in use and bird has  
8 received a change in messaging."  
9 Do you see that?  
10 A. I saw that.  
11 Q. Okay. So the fentanyl ad  
12 received a remodel. What was the remodel  
13 of the fentanyl ad?  
14 MR. MAIER: Objection to  
15 form.  
16 THE WITNESS: I don't  
17 remember specifically.  
18 BY MS. BAIG:  
19 Q. Do you remember generally?  
20 A. I remember what the fentanyl  
21 ad looked like. I don't remember what  
22 the remodel was.  
23 Q. What did the fentanyl ad  
24 look like?

1 A. I think it was a pair of  
2 binoculars.  
3 Q. What was that intended to  
4 symbolize?  
5 A. I don't remember now why  
6 that was -- you know, what the -- what  
7 the discussion, why that was the case.  
8 Q. And the corporate awareness  
9 ad for tree and bird, do you remember  
10 what the intent behind those messages  
11 were?  
12 A. I think the trees were just  
13 the healthy growing tree.  
14 Q. And for bird?  
15 A. I actually don't remember  
16 what the bird looked like. And those  
17 were for company -- the -- the brand,  
18 when we referring to the brand is the  
19 company brand.  
20 Q. And just below that it  
21 states, "Revamped corporate presentation  
22 for NACDS. With more customer focus and  
23 it was well received by both internal and  
24 external audiences."

1 company; is that right?  
2 A. It's normally just one page,  
3 a short version of company update.  
4 Presentation could be  
5 multiple pages.  
6 Q. A company update created by  
7 the marketing department, correct?  
8 A. Yes.  
9 Q. Which can include product  
10 information, correct?  
11 A. Depend on what you mean by  
12 product information. When they say we  
13 launched Product A, B.  
14 Q. And would those sizzle  
15 slides be handed out at the NACDS  
16 meeting?  
17 A. We did not hand out  
18 anything.  
19 Q. These --  
20 A. These were just  
21 presentation.  
22 Q. You didn't -- oh, I see.  
23 They would be presented at the NACDS  
24 meeting?

1 Do you see that?  
2 A. Yes.  
3 Q. How did you revamp the  
4 corporate presentation for NACDS?  
5 A. I don't remember the  
6 specifics.  
7 Q. Do you remember generally?  
8 A. No.  
9 Q. Okay. What is NACDS?  
10 A. It's National Association of  
11 Chain Drugstores. It is a big meeting  
12 where basically we participate every  
13 year.  
14 Q. And then it goes on state,  
15 "Presentation and sizzle slide is updated  
16 regularly."  
17 Do you see that?  
18 A. Yes.  
19 Q. And this is the company  
20 presentation and the product sizzle  
21 slides that we discussed earlier?  
22 A. So sizzle slides is not  
23 necessarily product specific.  
24 Q. Oh, it can be product or

1 A. It would be used at NACDS  
2 meetings with customers.  
3 Q. Used how? Presented or  
4 handed out?  
5 A. So just presented.  
6 Q. In a PowerPoint or  
7 something?  
8 A. Yeah.  
9 Q. I see. And would you give  
10 those presentations to NACDS?  
11 A. No.  
12 Q. Who would do that?  
13 A. Okay. So NACDS does not  
14 have these big -- so the presentations  
15 are not for specific -- let me take it  
16 back.  
17 The presentations we have  
18 are one-on-one meetings with customers.  
19 It's not on the stage big presentation to  
20 everyone.  
21 Q. I see. So you're just  
22 presenting it individually to the  
23 customers?  
24 A. Yeah.

<p style="text-align: right;">Page 89</p> <p>1 Q. At the meeting?</p> <p>2 A. Yeah.</p> <p>3 Q. I see. And the next item</p> <p>4 is, "The improved U.S. website,</p> <p>5 Actavis.us, was launched in the spring</p> <p>6 and has been given continuous updates to</p> <p>7 add new/remove products."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Was the marketing department</p> <p>11 involved in preparing the -- in improving</p> <p>12 the website?</p> <p>13 A. Yes.</p> <p>14 Q. And what was your</p> <p>15 involvement in that?</p> <p>16 A. I provided some guidance and</p> <p>17 comments.</p> <p>18 Q. Do you remember anything</p> <p>19 more specifically than that?</p> <p>20 A. Not really.</p> <p>21 MS. VENTURA: Before we move</p> <p>22 to the next document, do you folks</p> <p>23 mind if we take a restroom break?</p> <p>24 MS. BAIG: Sure. That's</p>	<p style="text-align: right;">Page 90</p> <p>1 fine.</p> <p>2 THE VIDEOGRAPHER: Going off</p> <p>3 the record. The time is 10:54.</p> <p>4 (Short break.)</p> <p>5 THE VIDEOGRAPHER: We are</p> <p>6 going back on record. Beginning</p> <p>7 of Media File 5. The time is</p> <p>8 11:12.</p> <p>9 (Document marked for</p> <p>10 identification as Exhibit</p> <p>11 Allergan-McCormick-5.)</p> <p>12 BY MS. BAIG:</p> <p>13 Q. Okay. Let's have this</p> <p>14 document marked as Exhibit 5. It is a</p> <p>15 document Bates-stamped</p> <p>16 Acquired_Actavis_0166139 through 1046.</p> <p>17 Appears to be another performance</p> <p>18 evaluation from 2012.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And you saw this in the</p> <p>22 regular course of your business at</p> <p>23 Actavis, right?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. And here it appears that the</p> <p>2 budget/target has increased to</p> <p>3 \$610 million per year. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And in the -- under the</p> <p>6 end-of-year comments it says, "2012 has</p> <p>7 been a fantastic year in achieving our</p> <p>8 financial objectives. November 6th</p> <p>9 year-to-date generic net sales was</p> <p>10 \$705 million which is already 16 percent</p> <p>11 over the full year budget of 610."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. So by only November of that</p> <p>15 year, you had already met and exceeded</p> <p>16 generic product sales?</p> <p>17 MR. MAIER: Objection to</p> <p>18 form.</p> <p>19 BY MS. BAIG:</p> <p>20 Q. Is that right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And the weight</p> <p>23 assigned to meeting the target here was</p> <p>24 40 percent; is that right?</p>	<p style="text-align: right;">Page 92</p> <p>1 A. Correct.</p> <p>2 Q. Do you see on the next page</p> <p>3 it states, under completion criteria,</p> <p>4 "Establish appropriate product specific</p> <p>5 advertising programs aligned with</p> <p>6 regulatory affairs and product</p> <p>7 approvals."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall what product</p> <p>11 specific advertising programs you helped</p> <p>12 establish that year?</p> <p>13 A. I don't remember specific</p> <p>14 products.</p> <p>15 Q. But your objective was to</p> <p>16 expand advertising programs via a variety</p> <p>17 of channels to increase the outreach to</p> <p>18 target audiences, correct?</p> <p>19 A. That's in the objective,</p> <p>20 yes.</p> <p>21 Q. Do you remember what new</p> <p>22 corporate branding advertisement you</p> <p>23 developed?</p> <p>24 A. I don't.</p>



1 Q. Do you recall that you were  
2 updating the sizzle slide monthly?  
3 A. That was normal course of  
4 business and normal business activity.  
5 So I would expect those to be updated on  
6 a regular basis.  
7 Q. Do you see in the next box  
8 it talks about "we continue to promote  
9 oxymorphone ER." Do you see that?  
10 A. I do see that.  
11 Q. Okay. TRx refers to what?  
12 A. Total scripts.  
13 Q. I see. "Total scripts now  
14 has exceeded the brand peak level prior  
15 to brand discontinuation in March 2011,"  
16 correct?  
17 A. I saw that.  
18 Q. "We also promoted mixed  
19 amphetamine ER salts to pharmacists as  
20 well as wholesalers."  
21 What were the mixed  
22 amphetamine ER salts?  
23 A. That's generic Adderall.  
24 Q. And you promoted those

1 through direct mailing to physicians,  
2 advertising in pediatrics journal, as  
3 well as compliance at the trade level; is  
4 that right?  
5 MR. KNAPP: Objection to  
6 form.  
7 THE WITNESS: Let me clarify  
8 that. The mixed amphetamine salts  
9 were to pharmacists and the  
10 wholesaler McKesson, not to the  
11 physician.  
12 BY MS. BAIG:  
13 Q. Oh, I see. The direct  
14 mailing to physicians refers to what?  
15 A. That refers to  
16 methylphenidate. That's Ritalin LA.  
17 Q. Got it. "Corporate  
18 branding, new advertisement is developed  
19 but not aired due to Watson acquisition."  
20 So you developed it prior to  
21 learning about it Watson acquisition, or  
22 what happened there?  
23 MR. MAIER: Objection to  
24 form.

1 THE WITNESS: So the Watson  
2 acquisition, those are large  
3 deals. None of us would know  
4 until it's announced.  
5 BY MS. BAIG:  
6 Q. So you were developing the  
7 corporate branding advertisement, and  
8 then did not use it; is that right?  
9 A. That's correct.  
10 Q. I think you stated that you  
11 left the company in 2013. Why did you  
12 leave Actavis?  
13 A. Because Actavis was acquired  
14 by Watson. So there was leadership  
15 change.  
16 Q. So were you asked to leave  
17 at that time?  
18 A. I did not have my existing  
19 position.  
20 Q. Did they offer another  
21 position to you?  
22 A. There were interest to offer  
23 me other positions, but I wasn't  
24 interested.

1 Q. I see. You understand that  
2 you've been designated as a custodian of  
3 documents to be produced in this case?  
4 MR. MAIER: Objection to  
5 form.  
6 THE WITNESS: Yes.  
7 BY MS. BAIG:  
8 Q. That your files were sought  
9 in connection with this litigation,  
10 right?  
11 A. Yes.  
12 Q. Okay. And do you know which  
13 of your files were searched for in  
14 connection with that production?  
15 MS. GERMANO: Objection to  
16 the extent that it goes into any  
17 privileged communications.  
18 THE WITNESS: I left Actavis  
19 six years ago. I would not know  
20 what was searched. I would assume  
21 everything that was available were  
22 searched.  
23 BY MS. BAIG:  
24 Q. But you don't know one way

1 or another?  
2 A. I do not.  
3 Q. Did you ever use personal  
4 computers or other devices such as phones  
5 or iPads for work purposes?  
6 A. Which time period are you  
7 referring to?  
8 Q. When you were at Alpharma  
9 and Actavis?  
10 A. Oh, I used the company's  
11 computer for company business. And I had  
12 the phone from company. I did not have  
13 an iPad at that time.  
14 Q. And did you have to return  
15 the phone when you left the company?  
16 A. Yes.  
17 Q. And did you use text -- text  
18 messages for company business?  
19 A. Yes.  
20 Q. Did you ever use any other  
21 sort of program other than e-mail -- did  
22 you use a personal -- actually, did you  
23 use a personal e-mail address to conduct  
24 company business ever?

1 A. No. It was in the form of  
2 continuation for -- you know, like a  
3 regular paycheck, come for a period of  
4 time.  
5 Q. So they continued to pay you  
6 for your regular salary?  
7 A. So it's a severance.  
8 Instead of a lump sum, it was distributed  
9 in the interval of the normal paycheck.  
10 Q. And what amount was  
11 distributed to you as part of the  
12 severance agreement?  
13 A. I don't remember.  
14 Q. Do you remember roughly?  
15 A. Roughly it's based on the  
16 year of service, so I want to say it's  
17 16 weeks.  
18 Q. 16 weeks of salary?  
19 A. Yeah. It's two weeks per  
20 year of service.  
21 Q. As the director of generic  
22 marketing, you were the one leading the  
23 generic marketing team that we discussed,  
24 correct?

1 A. Not in the normal course of  
2 business.  
3 Q. Do you know if you have any  
4 personal e-mails? Do you know if you  
5 have any company e-mails on your personal  
6 account that still exist?  
7 A. I don't believe so.  
8 Q. Have you looked?  
9 A. Personal e-mail, I did.  
10 Q. Did you find any e-mails?  
11 A. No, I did not.  
12 Q. Did you receive other  
13 performance evaluations while at Actavis  
14 other than the ones that we've just been  
15 through, that you recall?  
16 A. This is a standard -- every  
17 year everyone received them.  
18 Q. When you left the company,  
19 did you enter into a severance agreement?  
20 A. Yes.  
21 Q. And did that severance  
22 agreement -- under that severance  
23 agreement, were you paid a lump sum of  
24 money?

1 A. Yes.  
2 Q. And you were the one  
3 responsible for leading the oxymorphone  
4 ER launch; is that right?  
5 A. Yes.  
6 Q. And you reviewed market  
7 research and delivered quarterly market  
8 share reports; is that right?  
9 A. The quarterly market share  
10 reports cover every product.  
11 Q. And who were those delivered  
12 to?  
13 A. Those were delivered to  
14 sales and marketing and people who might  
15 need them. It's internal.  
16 Q. And you delivered quarterly  
17 market share reports for every product,  
18 including generic opioids, correct?  
19 A. For every product.  
20 Q. And you provided marketing  
21 in financial evaluations?  
22 A. Can you clarify what --  
23 clarify your question, please.  
24 Q. In the capacity of director

1 of marketing, did you provide marketing  
2 and financial evaluations to anyone at  
3 the company on a regular basis?

4 MR. MAIER: Objection to  
5 form.

6 THE WITNESS: Yeah, as part  
7 of my job, of course there's  
8 marketing information to, you  
9 know, my managers and people who  
10 are regularly conducting business.  
11 And the evaluation would be  
12 supporting business development,  
13 product selection. Yeah, various  
14 teams.

15 BY MS. BAIG:

16 Q. And would you also create  
17 marketing forecasts for pipeline  
18 products?

19 A. I did.

20 Q. And would you -- were you  
21 responsible for developing sales  
22 projections of all generic products in  
23 the annual budget?

24 A. Ultimately, yeah, it fell

1 within my responsibility.

2 Q. And were you responsible for  
3 creating targets for the people that  
4 reported to you?

5 A. So target -- if I were to  
6 consider them the same as my objectives,  
7 so it's not a single number or anything.  
8 Target is really objectives in different  
9 aspects of doing the job.

10 Q. Which sometimes include  
11 numbers as well, correct?

12 A. Of course.

13 Q. Okay.

14 A. It's part of our job, right,  
15 to --

16 Q. So, I'm just trying to  
17 understand if it was your responsibility  
18 to create those target numbers for the  
19 people that worked for you?

20 A. Yes.

21 Q. Okay. And how did you go  
22 about doing that?

23 A. Typically each individual  
24 would look at the company objectives and

1 then take that into consideration and  
2 align with their individual  
3 responsibility and come up with goals and  
4 objectives for the year. And I would  
5 approve them.

6 Q. And did you work with  
7 anybody in creating those target numbers?

8 A. You mean the sales budget or  
9 the objectives?

10 Q. Whatever target numbers that  
11 you were giving to the members of your  
12 team?

13 A. Yes. I worked with all of  
14 them to create those objectives.

15 Q. You worked -- you would  
16 provide them the target numbers or -- who  
17 did you -- my question is, who did you  
18 work with to come up with targets for  
19 your team?

20 A. So the process is such the  
21 company set the objectives first. And we  
22 wanted our objectives to be aligned with  
23 a company's perspective -- objectives.

24 Q. Sure. I'm talking about the

1 numbers for now.

2 A. Okay.

3 Q. I appreciate that there are  
4 a number of different objectives. The  
5 budgets/targets that we discussed  
6 before --

7 A. Okay.

8 Q. -- that were increasing year  
9 over year for you. And I'm wondering if  
10 you set targets for your team members  
11 similar to the ones that you had, or --  
12 or different.

13 MS. GERMANO: Objection --

14 MR. MAIER: Objection to  
15 form.

16 MS. GERMANO: -- as to form  
17 and to accuracy.

18 THE WITNESS: Okay. I know  
19 it's a little complicated, but the  
20 budget number was set at the  
21 company level. Then became my  
22 budget. I had product managers  
23 who have individual budget which  
24 depend on the product they manage.

1 So those -- the sum of the  
 2 product they manage becomes their  
 3 budget. Does that make sense?  
 4 BY MS. BAIG:  
 5 Q. Did they have sales goals?  
 6 A. They have budget objectives  
 7 such as mine, similar to mine.  
 8 Q. Were those sales goals?  
 9 A. Those were revenue  
 10 objectives.  
 11 Q. Okay. And how did you go  
 12 about setting those revenue objectives  
 13 for your -- the people that reported to  
 14 you?  
 15 A. Okay. So if I were to use  
 16 example, if the company's budget is, say  
 17 \$600 million, each person in my group, if  
 18 they manage product, let's say if the  
 19 product they manage 20 product, that 20  
 20 product revenue adds up to \$200 million,  
 21 then their budget objective would be  
 22 \$200 million.  
 23 Q. Okay. And their bonus  
 24 potential would be in part measured

1 have others reporting to you as well?  
 2 A. So there were turnover of  
 3 course. So there were people who came,  
 4 who joined the team, who left the team,  
 5 we, you know, filled those positions. So  
 6 there were other peoples during my course  
 7 of eight years there.  
 8 Q. Was the number of people  
 9 that reported to you ever larger than  
 10 four?  
 11 A. I'm really not sure.  
 12 Q. Okay. But it was never like  
 13 50 or something like that?  
 14 A. No. It could be five.  
 15 Q. It was in that range?  
 16 A. Yeah.  
 17 Q. Okay. In looking at your  
 18 performance evaluations, I can see that  
 19 your targets were increasing year over  
 20 year. Do you know whether or not that  
 21 was consistent with the targets that you  
 22 set with your -- for your team members?  
 23 MS. GERMANO: Objection --  
 24 BY MS. BAIG:

1 against their ability to meet those  
 2 targets; is that right?  
 3 A. The -- the ability to meet  
 4 those budget numbers are one of the  
 5 component of their evaluation.  
 6 Q. And did you work with  
 7 anybody else in setting those numbers for  
 8 your team, did you work with the person  
 9 you reported to, or anybody else, in  
 10 setting those numbers, or did you do that  
 11 on your own?  
 12 A. So with my team, I worked  
 13 with my team individually to set up those  
 14 goals.  
 15 The company budget was set,  
 16 of course, working with many other teams  
 17 to set the company budget, Mike Perfetto,  
 18 and his boss, you know, product  
 19 development team. So many other people,  
 20 to come up with the company budget.  
 21 Q. And how many people did you  
 22 have reporting to you when you were at  
 23 Actavis, was it just those four that  
 24 we've talked about already, or did you

1 Q. Were theirs increasing year  
 2 over year as well?  
 3 MS. GERMANO: Objection.  
 4 Mischaracterizes.  
 5 MS. VENTURA: Join the  
 6 objection.  
 7 THE WITNESS: So my team's  
 8 objectives are aligned with mine,  
 9 which was aligned with the company  
 10 objectives. So it depends on the  
 11 product they manage, you could  
 12 fluctuate.  
 13 BY MS. BAIG:  
 14 Q. You were ultimately  
 15 responsible for trying to drive generic  
 16 sales for all of your products, but  
 17 including your opioid products, correct?  
 18 MR. MAIER: Objection to  
 19 form.  
 20 MS. VENTURA: Objection to  
 21 form.  
 22 THE WITNESS: I'm one of the  
 23 people who were responsible for  
 24 driving the company's business.

1 BY MS. BAIG:  
 2 Q. But talking about you, you  
 3 were responsible for driving the  
 4 company's generic opioid sales, correct?  
 5 MR. MAIER: Objection to  
 6 form.  
 7 THE WITNESS: See, in these  
 8 days it's always a team, right?  
 9 So I headed the marketing. And  
 10 there was my boss, there's a sales  
 11 team, and really product  
 12 development team. Everyone was  
 13 working to drive the company's  
 14 growth.  
 15 BY MS. BAIG:  
 16 Q. Were you also responsible  
 17 for driving brand name drug sales?  
 18 A. I was not.  
 19 MS. GERMANO: Objection.  
 20 BY MS. BAIG:  
 21 Q. So you were primarily  
 22 involved with driving generic drug sales?  
 23 MS. GERMANO: Objection.  
 24 MR. MAIER: Objection to

1 director.  
 2 What marketing tools did you  
 3 do to try to drive those sales of generic  
 4 opioid products?  
 5 MR. MAIER: Objection to  
 6 form.  
 7 THE WITNESS: So generic  
 8 sales typically would -- to drive  
 9 the growth of generic sales  
 10 involves a number of factors.  
 11 One of them is really  
 12 gaining the distribution at  
 13 wholesalers, distributors, retail  
 14 chains.  
 15 And second, is by lowering  
 16 the cost, working with the  
 17 production team. And to gain that  
 18 distribution or market share at  
 19 our customers require us to, you  
 20 know, be a good supplier which  
 21 means a good consistent supply, as  
 22 well as competitive price.  
 23 BY MS. BAIG:  
 24 Q. So, but you were the

1 form.  
 2 THE WITNESS: Only generic  
 3 prescription drug sales.  
 4 BY MS. BAIG:  
 5 Q. Okay. And in your efforts  
 6 to do that, what marketing tools did you  
 7 use to drive --  
 8 MS. GERMANO: Objection to  
 9 form --  
 10 BY MS. BAIG:  
 11 Q. -- sales for generic  
 12 products?  
 13 MS. GERMANO: -- and  
 14 foundation.  
 15 THE WITNESS: I mean this is  
 16 a big question. To drive a  
 17 business growth, it required  
 18 really the whole company. It  
 19 wasn't just me.  
 20 BY MS. BAIG:  
 21 Q. Sure. No, I understand  
 22 that. I'm just talking to you about what  
 23 you know and the tools that you used in  
 24 the -- in your capacity as marketing

1 director of marketing. My question to  
 2 you is, what marketing tools did you use  
 3 to try to drive sales?  
 4 We've talked about a few.  
 5 We talked about sizzle slides, for  
 6 example. We've talked about meetings  
 7 that you've had with the customers.  
 8 What -- we've talked about  
 9 -- your use of ad agencies.  
 10 What other types of tools  
 11 did you drive -- did you use to try to  
 12 drive sales?  
 13 A. So --  
 14 MR. KNAPP: Objection to  
 15 form and foundation.  
 16 MS. VENTURA: Objection to  
 17 form.  
 18 MR. MAIER: Objection to  
 19 form.  
 20 THE WITNESS: So to drive  
 21 sales -- the generic marketing  
 22 really is different from, if you  
 23 were to think about the consumer  
 24 goods or the brand marketing.



<p style="text-align: right;">Page 113</p> <p>1 Generic marketing is so much</p> <p>2 about product management which</p> <p>3 means to supply -- to make the</p> <p>4 medicine available, accessible and</p> <p>5 affordable with good service and</p> <p>6 supply to the customers.</p> <p>7 So this notion of</p> <p>8 advertising that drives it is --</p> <p>9 is such a minor component of</p> <p>10 generic marketing.</p> <p>11 BY MS. BAIG:</p> <p>12 Q. But you did hire an</p> <p>13 advertising agency.</p> <p>14 A. Yeah. That's why it's a</p> <p>15 small one.</p> <p>16 Q. Okay. And did you use</p> <p>17 Kadian sales reps to detail generic</p> <p>18 opioids to doctors?</p> <p>19 MS. VENTURA: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: We did not</p> <p>22 hire the Kadian sales rep to</p> <p>23 detail the generic opioids.</p> <p>24 BY MS. BAIG:</p>	<p style="text-align: right;">Page 114</p> <p>1 Q. No. Did you use them</p> <p>2 though, is my question.</p> <p>3 A. We --</p> <p>4 MR. KNAPP: Please just let</p> <p>5 the witness finish. I think she</p> <p>6 was still answering the question.</p> <p>7 MS. VENTURA: And objection</p> <p>8 to form.</p> <p>9 THE WITNESS: So we used</p> <p>10 them just to make the doctors</p> <p>11 aware that generic products on</p> <p>12 very select cases was available.</p> <p>13 They were not detailing any</p> <p>14 benefit of the -- the medicine.</p> <p>15 BY MS. BAIG:</p> <p>16 Q. And who trained the Kadian</p> <p>17 sales reps on what they were to say about</p> <p>18 generic opioids when they were visiting</p> <p>19 doctors?</p> <p>20 A. I mean there was sales team,</p> <p>21 there was training from marketing and</p> <p>22 legal. I don't remember exactly who</p> <p>23 trained them. But they were properly</p> <p>24 trained.</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. They were what?</p> <p>2 A. They were properly trained.</p> <p>3 Q. Well, were you at the</p> <p>4 training?</p> <p>5 A. I was not.</p> <p>6 Q. So you weren't involved in</p> <p>7 training -- in training the sales reps?</p> <p>8 A. I was involved in the</p> <p>9 material used to train them.</p> <p>10 Q. What were the materials used</p> <p>11 to train them?</p> <p>12 A. I -- it's really just to let</p> <p>13 them know the -- what they could or could</p> <p>14 not say. It really was about the</p> <p>15 availability of the generic product.</p> <p>16 Q. And do you know when the</p> <p>17 company started using Kadian sales reps</p> <p>18 to market generic opioids?</p> <p>19 MS. VENTURA: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: It was only on</p> <p>22 the very selective cases, like</p> <p>23 oxymorphone and the generic</p> <p>24 Kadian. So, morphine sulfate.</p>	<p style="text-align: right;">Page 116</p> <p>1 BY MS. BAIG:</p> <p>2 Q. Sure. But my question was,</p> <p>3 do you know when the company started</p> <p>4 using Kadian sales reps to market generic</p> <p>5 opioids?</p> <p>6 MS. VENTURA: Same</p> <p>7 objection.</p> <p>8 MR. MAIER: Objection to</p> <p>9 form.</p> <p>10 THE WITNESS: I don't</p> <p>11 remember.</p> <p>12 (Document marked for</p> <p>13 identification as Exhibit</p> <p>14 Allergan-McCormick-6.)</p> <p>15 BY MS. BAIG:</p> <p>16 Q. I'll have this document</p> <p>17 marked as Exhibit 6.</p> <p>18 This document is</p> <p>19 Bates-stamped ALLERGAN_MDL_00235615</p> <p>20 through 5616. It's just an e-mail</p> <p>21 between you and Rachelle Galant and</p> <p>22 others.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>

1 Q. And you're asking her to  
2 lead the call for marketing. Was there a  
3 regularly scheduled call on Mondays for  
4 marketing?  
5 A. We had regular calls on  
6 Monday.  
7 Q. And do you see where it's  
8 listed oxymorphone ER?  
9 A. Yes.  
10 Q. And it references,  
11 "Encouraging initial feedback from Kadian  
12 sales reps."  
13 Is that a reference to  
14 receiving encouraging feedback from  
15 Kadian sales reps?  
16 A. I think it's to -- to get  
17 feedback from the sales team on -- on  
18 their activity.  
19 Q. So if you read, the next  
20 sentence, it says, "Physicians are  
21 receptive and welcome the generic  
22 strengths."  
23 Do you see that?  
24 A. Yes.

1 MS. VENTURA: Objection to  
2 form.  
3 THE WITNESS: I do not know  
4 that.  
5 BY MS. BAIG:  
6 Q. Would Jennifer Altier have  
7 been the person that would have trained  
8 the Kadian sales reps with respect to the  
9 marketing of generic opioids?  
10 MS. VENTURA: Objection to  
11 form.  
12 THE WITNESS: I don't  
13 remember.  
14 BY MS. BAIG:  
15 Q. Did you have something  
16 called sell sheets?  
17 A. Yes.  
18 Q. What are sell sheets?  
19 A. It's a -- typically a  
20 one-page, maybe two, of material that we  
21 would use with customers.  
22 Q. Material about specific  
23 products?  
24 A. It could be products. It

1 Q. Does that suggest to you  
2 that that is the encouraging feedback  
3 that you're getting from Kadian sales  
4 reps?  
5 MR. MAIER: Objection to  
6 form.  
7 THE WITNESS: So  
8 oxymorphone, the two strength we  
9 launched were discontinued by  
10 brand, and so this is referring to  
11 welcome the generic strength,  
12 because brand had discontinued.  
13 BY MS. BAIG:  
14 Q. Do you recall why the brand  
15 was discontinued?  
16 A. I do not.  
17 Q. You didn't have any  
18 information on that at the time?  
19 A. We had information at the  
20 time. I just do not remember now.  
21 Q. Do you recall whether or not  
22 it was related to abuse potential?  
23 MR. MAIER: Objection to  
24 form.

1 could be -- it could be company. But  
2 typically it's a product.  
3 Q. Okay. And how were the sell  
4 sheets provided to the customers?  
5 A. Customers were -- let me put  
6 it -- it's -- our customers are not  
7 patients and physicians typically. So  
8 they are the buyers from the pharmacy or  
9 the wholesalers. So we could either just  
10 e-mail to them, show it to them.  
11 Typically, it's in those forms, or have a  
12 meeting with them, could leave it to  
13 them.  
14 (Document marked for  
15 identification as Exhibit  
16 Allergan-McCormick-7.)  
17 BY MS. BAIG:  
18 Q. I'll have this document  
19 marked as Exhibit 7. This document has a  
20 Bates stamp -- has a Bates stamp of  
21 ALLERGAN\_MDL\_03998242 through 3998263.  
22 And you'll see it begins  
23 with an e-mail from you to Lisa Pehlke,  
24 Mike Dorsey, Mike Perfetto, and others,

<p style="text-align: right;">Page 121</p> <p>1 stating, "Enclosed, please find the 2 following information for oxycodone ER 3 launch." And this is dated November 10, 4 2009.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And the first bullet point 8 is, "Sell sheet including PI" -- what's 9 PI?</p> <p>10 A. Product information.</p> <p>11 Q. -- "including product 12 information can be sent to customers." 13 So is the sell sheet 14 attached here?</p> <p>15 A. Yes.</p> <p>16 Q. Which one is the sell sheet?</p> <p>17 A. The Bates number ending 246.</p> <p>18 Q. Okay. So this was the sell 19 sheet that you were using for the 20 oxycodone ER launch; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And is this sell sheet -- 23 how many pages is the sell sheet? 24 A. One, plus the PI.</p>	<p style="text-align: right;">Page 122</p> <p>1 Q. Product information begins 2 on the next page?</p> <p>3 A. Those are labels. Those are 4 small prints. Those are FDA-approved 5 product label. So all the small 6 prints --</p> <p>7 Q. The very small print, that's 8 the product information?</p> <p>9 A. Yeah.</p> <p>10 Q. Okay. And then if you turn 11 to the page beginning 253, is that still 12 part of the product information or is 13 this different?</p> <p>14 A. 253? Oh, this is the HDMA 15 form.</p> <p>16 Q. What is an HDMA form?</p> <p>17 A. It's -- so the Healthcare 18 Distribution Management Association, 19 HDMA, requires companies to fill this 20 form, standard form for drug distribution 21 for every product you sell. And this is 22 used for basically wholesalers and 23 retailers that buy the product.</p> <p>24 Q. Did you use pricing and</p>
<p style="text-align: right;">Page 123</p> <p>1 incentive programs to try to market 2 generic opioids?</p> <p>3 MR. MAIER: Object to form.</p> <p>4 THE WITNESS: So generic 5 compete -- one of the very 6 important components is to compete 7 on pricing to make the medicine 8 affordable to patients.</p> <p>9 BY MS. BAIG:</p> <p>10 Q. And so in order to do that, 11 did you implement certain pricing and 12 incentive programs?</p> <p>13 A. This pricing incentive is 14 built into the product offer, to our 15 customers. It's also built into the 16 master agreement.</p> <p>17 Q. Were you involved in 18 developing pricing and incentive programs 19 or was that a different department?</p> <p>20 A. Contract and sales are more 21 involved with setting up the contract.</p> <p>22 Q. So you didn't have any 23 involvement with developing pricing and 24 incentive programs in order to market the</p>	<p style="text-align: right;">Page 124</p> <p>1 generics?</p> <p>2 MR. MAIER: Objection to 3 form.</p> <p>4 MS. GERMANO: Objection to 5 form.</p> <p>6 THE WITNESS: In general, I 7 did not.</p> <p>8 BY MS. BAIG:</p> <p>9 Q. Are you familiar with 10 something called the marketing choice 11 program?</p> <p>12 A. No, I'm not.</p> <p>13 Q. Are you familiar with the 14 term "customer connectivity program"?</p> <p>15 A. I don't remember.</p> <p>16 Q. In terms of the rebates that 17 were offered to certain of your 18 customers, were you involved in 19 determining what they should be or where 20 they should be set?</p> <p>21 A. Typically not.</p> <p>22 Q. Can you remember any 23 instances when you were, for generic 24 opioids?</p>

1 A. So products typically were  
2 sold falling under the master agreement.  
3 And price is specific. But the agreement  
4 was not product specific.

5 Q. Do you recall whether there  
6 were product specific rebates that were  
7 offered?

8 A. You could have  
9 product-specific rebate and -- during the  
10 time that a product was offered to our  
11 customers.

12 Q. Were you involved in  
13 developing that --

14 A. I was not.

15 Q. -- or was that outside of  
16 your --

17 A. That was outside of my  
18 responsibility.

19 Q. Okay. So you don't have any  
20 knowledge of the rebate percentages that  
21 would have been used for various opioid  
22 products; is that right?

23 A. I did not.

24 Q. You don't have any knowledge

1 of that right now?

2 A. I don't.

3 Q. Other than the advertising  
4 agencies that you referenced earlier, are  
5 there any other entities that you worked  
6 with in order to market or promote  
7 generic opioids?

8 MR. MAIER: Objection to  
9 form.

10 THE WITNESS: I don't  
11 remember working with anyone other  
12 than the one we mentioned earlier,  
13 and then the -- the one following  
14 that agent.

15 BY MS. BAIG:

16 Q. Do you recall whether or not  
17 Actavis was paying marketing fees to  
18 customers?

19 MS. VENTURA: Objection to  
20 form.

21 THE WITNESS: If there was  
22 specific marketing programs set up  
23 with the customers, that could be  
24 a fee. But in general, we don't

1 pay specific -- we don't pay  
2 marketing fees to customers.

3 BY MS. BAIG:

4 Q. So what's the example,  
5 what's an example of a specific marketing  
6 program that could be set up with  
7 customers?

8 A. So if we ask McKesson to  
9 promote a product, there will be specific  
10 program fees for the -- for that  
11 product -- for that product and project.  
12 So that would be separate approval and...

13 Q. Separate approval from whom?

14 A. Separate fees, separate  
15 approval from -- from both the McKesson  
16 side and from the Actavis side.

17 Q. And if you ask McKesson to  
18 promote a product, would that be  
19 reflected in the product agreement with  
20 McKesson or what agreement -- would that  
21 be a separate standalone promotional  
22 agreement with McKesson?

23 MR. KNAPP: Objection to  
24 form.

1 MR. MAIER: Objection to  
2 form.

3 BY MS. BAIG:

4 Q. Where would I find that  
5 language?

6 A. That would be a separate  
7 agreement. And -- so the agreement  
8 between Actavis and all their customers  
9 have a master agreement.

10 Q. So there would be one master  
11 agreement and then there would be a  
12 separate marketing agreement if one  
13 existed; is that right?

14 A. Yes.

15 Q. Okay. And do you recall any  
16 such agreements with any customers?

17 A. We have used -- occasionally  
18 used wholesalers to promote the product,  
19 really in the way to make it aware,  
20 really it's about awareness that the  
21 generic product became available.

22 Q. So when you use wholesalers  
23 to market the product, do you review the  
24 materials that they use to do that before

<p style="text-align: right;">Page 129</p> <p>1 they use them?</p> <p>2 MR. MAIER: Object to form.</p> <p>3 THE WITNESS: I did not</p> <p>4 review the -- their material.</p> <p>5 BY MS. BAIG:</p> <p>6 Q. Do you recall a program</p> <p>7 being set up with McKesson to that</p> <p>8 effect?</p> <p>9 MR. BAILEY: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: I remember</p> <p>12 one, mixed amphetamine salts. We</p> <p>13 set up a program with McKesson so</p> <p>14 they could reach out to their</p> <p>15 pharmacies to make it aware that</p> <p>16 our -- our product was available,</p> <p>17 you know, as one example, I</p> <p>18 remember.</p> <p>19 BY MS. BAIG:</p> <p>20 Q. Do you recall any others?</p> <p>21 A. Not specifics.</p> <p>22 Q. Generally?</p> <p>23 A. Not at this point.</p> <p>24 Q. Do you recall using volume</p>	<p style="text-align: right;">Page 130</p> <p>1 incentive programs to try to market</p> <p>2 generic opioids?</p> <p>3 MR. MAIER: Objection to</p> <p>4 form.</p> <p>5 MS. GERMANO: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: We use volume</p> <p>8 incentive program to grow the</p> <p>9 business with a customer, not a</p> <p>10 specific product.</p> <p>11 So it's for the entire</p> <p>12 basket of product with the</p> <p>13 customers and not a product</p> <p>14 specific volume incentive rebate.</p> <p>15 BY MS. BAIG:</p> <p>16 Q. Okay. But you would use</p> <p>17 volume incentive programs for a basket of</p> <p>18 products that included opioid products,</p> <p>19 correct?</p> <p>20 MS. VENTURA: Objection to</p> <p>21 form, foundation.</p> <p>22 THE WITNESS: So the basket</p> <p>23 typically is not specific to any</p> <p>24 product. It could include</p>
<p style="text-align: right;">Page 131</p> <p>1 basically the entire portfolio of</p> <p>2 Actavis product with the objective</p> <p>3 of growing the business with a</p> <p>4 particular customer.</p> <p>5 BY MS. BAIG:</p> <p>6 Q. You mean the basket is not</p> <p>7 specific to the product or the volume</p> <p>8 incentive is not specific to the product?</p> <p>9 A. So the volume incentive is</p> <p>10 not specific to do product. So all of</p> <p>11 the Actavis product are included in the</p> <p>12 basket.</p> <p>13 Q. Including the generic</p> <p>14 opioids, correct?</p> <p>15 A. Including all of the</p> <p>16 product.</p> <p>17 Q. Do you remember what those</p> <p>18 volume incentive programs looked like?</p> <p>19 A. Some of them. Each</p> <p>20 product -- so each customers may have</p> <p>21 different volume incentive program,</p> <p>22 different variation. And not all</p> <p>23 customers have volume incentive program.</p> <p>24 Q. Are they primarily offered</p>	<p style="text-align: right;">Page 132</p> <p>1 to your larger customers?</p> <p>2 A. No.</p> <p>3 Q. Are they primarily like --</p> <p>4 which customers would -- would be offered</p> <p>5 the volume incentive programs?</p> <p>6 A. It's -- it could be a</p> <p>7 mixture of both small and large.</p> <p>8 Q. What goes into that</p> <p>9 analysis?</p> <p>10 A. So the analysis is what the</p> <p>11 customer's value in terms of their</p> <p>12 business operation. Some prefer a volume</p> <p>13 incentive program. Others would just</p> <p>14 prefer a low net price.</p> <p>15 So it is catering to, you</p> <p>16 know, different strategies for different</p> <p>17 customers.</p> <p>18 Q. Did you do trade shows as</p> <p>19 part of your work at Actavis and</p> <p>20 Alpharma, did you attend trade shows?</p> <p>21 A. Yes, I did.</p> <p>22 Q. What type of trade shows?</p> <p>23 A. So there are lots -- there</p> <p>24 were lots of trade shows. Typically</p>



1 wholesaler conduct trade shows. Like  
2 Amerisource, Cardinal, McKesson, all had  
3 their own trade shows. And so I attended  
4 some of those throughout the years.

5 There were meetings and  
6 they're -- they might be referred as  
7 trade shows. But there were meetings  
8 like NACDS, or ECRM and HDMA  
9 conference -- conferences.

10 Q. What is ECRM?

11 A. It -- I don't remember  
12 exactly the acronym. Efficient --  
13 efficient collaborative marketing.  
14 Something to that effect.

15 Q. And you would attend these  
16 trade shows for the purpose of building  
17 relationships with your customers?

18 A. Yes. To also understand the  
19 customers' perspective.

20 Q. And your competitors would  
21 attend as well?

22 A. Yes.

23 Q. And would you have booths at  
24 the trade shows?

1 A. Depends on the shows.

2 Typically we do, except ECRM which has  
3 just meeting rooms, no booths.

4 Q. And if you had a booth at a  
5 trade show, would you hand out materials  
6 at the trade show?

7 A. Depends on the -- the show  
8 itself. At NACDS really there were just  
9 one-on-one meetings with customers. We  
10 could potentially give them a sell sheet  
11 like this, or any of them.

12 Typically we don't have much  
13 of material to hand out.

14 Q. Were the sizzle slides  
15 sometimes handed out at the trade shows?

16 A. Actually not, most of the  
17 time not.

18 Q. They were never handed out  
19 at trade shows?

20 A. So the sizzle slides were  
21 only presented to customers on a  
22 one-on-one basis. We could have e-mailed  
23 them, but we would not just hand out to  
24 anyone who walked by.

1 Q. But if you were at a trade  
2 show in which you were meeting with the  
3 customers one-on-one, would you hand out  
4 the sizzle slides there?

5 A. We could. We -- we would  
6 show them or talk to it, yes.

7 Q. And who was responsible for  
8 preparing the materials that were used at  
9 the trade shows?

10 A. Depends on the material.  
11 The marketing group typically worked on  
12 the sales presentations, as well as the  
13 sizzle slides. And so my group would be  
14 responsible for preparing the material.

15 Q. And what were the sales  
16 presentations?

17 A. Best business review. It  
18 typically has company update, business  
19 review specific to the customer we were  
20 meeting. And maybe pipeline of product  
21 and how to grow the business, as well as  
22 maybe some open discussion points, issues  
23 that the sales team wanted to address  
24 with that specific customer.

1 (Document marked for  
2 identification as Exhibit  
3 Allergan-McCormick-8.)  
4 BY MS. BAIG:

5 Q. I'll have this document  
6 marked as Exhibit 8.

7 In addition to volume  
8 incentives, did you offer other types of  
9 incentives to stores in order to promote  
10 generic opioids?

11 MR. MAIER: Object to form.

12 THE WITNESS: I'm just  
13 reading through the material that  
14 you provided here.

15 BY MS. BAIG:

16 Q. Okay. So in addition to  
17 volume incentives, did you offer other  
18 types of incentives to stores in order to  
19 promote generic opioids?

20 MR. MAIER: Object to form.

21 THE WITNESS: As I'm reading  
22 through these e-mails, so this is  
23 more of a stocking program because  
24 the oxy ER -- sorry, oxymorphone

1 ER was discontinued by the brand.  
 2 BY MS. BAIG:  
 3 Q. Okay. Do you see that -- so  
 4 this is an e-mail that is -- did I put  
 5 the Bates stamp number? That's  
 6 Bates-stamped ACTAVIS\_0623776 through  
 7 781.  
 8 And do you see the subject  
 9 of the e-mail is "McKesson marketing  
 10 opportunities, Actavis oxymorphone ER."  
 11 Do you see that?  
 12 A. Yes.  
 13 Q. Okay. And this is written  
 14 from you, correct?  
 15 A. I replied to Ara's e-mail.  
 16 Yes.  
 17 Q. And it's sent -- at least  
 18 the first e-mail string is sent from you  
 19 and dated August 19, 2011, correct?  
 20 A. Yes.  
 21 Q. All right. So it's a  
 22 discussion about McKesson marketing  
 23 opportunities for Actavis oxymorphone ER;  
 24 is that right?

1 you remember as you sit here right now?  
 2 A. This is the only one that I  
 3 can remember right now.  
 4 Q. Okay. And when you're  
 5 offering \$25 for first bottle, is that a  
 6 discount that you're offering?  
 7 MR. BAILEY: Objection to  
 8 form.  
 9 THE WITNESS: I don't  
 10 remember exactly what form it  
 11 took. It could be discount or  
 12 effectively discount.  
 13 BY MS. BAIG:  
 14 Q. What do you mean  
 15 "effectively discount"? Do you mean like  
 16 a rebate?  
 17 A. We -- so it could take on  
 18 different form. It could be just a  
 19 reduction in the price, or initial order  
 20 discount.  
 21 Q. What other forms could it  
 22 take?  
 23 A. We could give a total back  
 24 to -- back to the store.

1 A. This is a proposal  
 2 discussion, yes.  
 3 Q. That's the heading of the  
 4 discussion, right?  
 5 A. Mm-hmm.  
 6 Q. Okay. And you're writing  
 7 here, "I agree, if we provide incentive  
 8 to stores, say \$25 for first bottle,  
 9 that's \$12,500 and an additional \$10 to  
 10 McKesson for the first bottle order which  
 11 is \$5,000. This way we can put product  
 12 at 500 stores."  
 13 Is this an example of an  
 14 incentive that would be offered to stores  
 15 in order to promote generic sales?  
 16 MR. MAIER: Object to form.  
 17 THE WITNESS: This is, I  
 18 think, the only time I remember we  
 19 did this to -- with McKesson to  
 20 promote the product to really --  
 21 to get the stock, initial stock at  
 22 the store.  
 23 BY MS. BAIG:  
 24 Q. This is the only one that

1 Q. Like a chargeback?  
 2 A. No.  
 3 Q. Something different?  
 4 A. It's, just from logistic  
 5 point of view, you could also give  
 6 them -- just give them credit, for  
 7 example.  
 8 Q. And what would that be  
 9 called if it was given as credit? Is it  
 10 called a coupon or a rebate or a  
 11 chargeback, or what it's called?  
 12 A. It wouldn't be called a  
 13 coupon. It wouldn't be called a  
 14 chargeback. It would either be off  
 15 invoice or a credit.  
 16 Q. Okay. And do you see a  
 17 little further down, there's an e-mail  
 18 from Ara to you and Mike Perfetto and it  
 19 says, "Think we are on the same page.  
 20 Like the limited focus of calls to only  
 21 those stores that have purchased brand in  
 22 the past nine months (or do we refine to  
 23 six months?) Let's ratchet it down with  
 24 what we pay them to make the calls and

1 potentially give them an opportunity to  
2 earn five times or six times the number  
3 (25K to 30K) based on providing proof of  
4 store stocking in a period of 30 days.  
5 With the 25K to 30K, we should get some  
6 to the retailer to incentivize them to  
7 order and fast."

8 Do you see that?

9 A. Yes.

10 Q. Okay. Is this -- first of  
11 all, what is the -- what are the calls  
12 that he's talking about, "We pay them to  
13 make the calls"?

14 A. So McKesson, that was --  
15 what's Ara is referring to is to have  
16 McKesson call the pharmacies to stock the  
17 product to get it started, because the  
18 brand had initially discontinued the  
19 product and the pharmacies may not be  
20 aware that a generic product equivalent  
21 to the brand Opana is avail -- was  
22 available at that time.

23 Q. So you're paying McKesson to  
24 call the pharmacies regarding the

1 product; is that right?

2 MR. BAILEY: Object to form.

3 THE WITNESS: It's for the  
4 stocking the store.

5 BY MS. BAIG:

6 Q. And it says here, "And  
7 potentially give them an opportunity to  
8 earn five times or six times the number."  
9 What does that mean? Who's earning five  
10 times or six times the number?

11 A. I wouldn't know what he  
12 meant. I would think it's McKesson.

13 Q. So McKesson has the  
14 opportunity to earn money if they make  
15 these calls?

16 MR. BAILEY: Object to form.

17 BY MS. BAIG:

18 Q. Is that how you read this?

19 A. Yes, because for them to  
20 sell more product and they have  
21 opportunity to make more profit. I mean,  
22 that's their business model. They're  
23 distributors. They're in the --  
24 wholesaler/distributor.

1 Q. And they would then have  
2 that opportunity to make more profit  
3 based on providing proof of store  
4 stocking. Who do they have to provide  
5 proof of store stocking to? To you?

6 A. To us, to get the -- say,  
7 the \$25 credit.

8 Q. I see. "With the 25 to  
9 30,000 we should get some of the retailer  
10 to incentivize them to order and fast."

11 So the purpose behind this  
12 was to drive sales by incentivizing the  
13 retailers to order fast; is that right?

14 MR. MAIER: Object to form.

15 MS. VENTURA: Objection to  
16 form.

17 THE WITNESS: So oxymorphone  
18 is a very low volume product, and  
19 the brand discontinued.

20 Actavis was the first  
21 generic to launch this product.  
22 Therefore, the retailer, meaning  
23 the pharmacies, did not know we  
24 actually had this generic

1 available for the patient who  
2 might actually need them. So this  
3 is awareness to put the product,  
4 the first bottle in the -- in the  
5 store.

6 BY MS. BAIG:

7 Q. And you don't recall why the  
8 brand was discontinued, right?

9 A. I do not.

10 Q. You never learned anything  
11 about why Opana ER was discontinued?

12 A. I do not remember.

13 Q. Do you see on the next page  
14 there's an e-mail from John Hansen. Who  
15 is John Hansen again?

16 A. John Hansen was director of  
17 marketing at McKesson.

18 Q. Oh, okay. Did you have a  
19 relationship with John Hansen?

20 A. I did work with him.

21 Q. Did you work with him  
22 regularly?

23 A. No.

24 Q. And John Hansen is

1 responding with a, quote, "Slightly  
2 modified proposal for our promotional  
3 opportunities." Is that right?  
4 A. Yes.  
5 Q. He goes onto state, "In  
6 light of the fact that we are targeting  
7 only 500 pharmacies with significant  
8 brand sales, I've lowered the prices for  
9 the GenericsConnect phone campaign and  
10 the fax blast in addition to reducing the  
11 store count for the mailer."  
12 Do you see that?  
13 A. Yes.  
14 Q. So does this suggest to you  
15 that McKesson is doing the  
16 GenericsConnect phone campaign, fax blast  
17 and mailers, or is that something that  
18 Actavis is doing?  
19 MR. BAILEY: Objection to  
20 form.  
21 THE WITNESS: It's McKesson.  
22 BY MS. BAIG:  
23 Q. McKesson is doing it. So  
24 that's --

1 form.  
2 THE WITNESS: We would have  
3 data only on the product we sell.  
4 We would not have chargeback data  
5 on somebody else's product.  
6 BY MS. BAIG:  
7 Q. I see.  
8 A. And this is brand sales.  
9 Q. I see. So it makes sense  
10 that you used McKesson to target these  
11 500 pharmacies because they have the data  
12 to all of the pharmacies that were high  
13 prescribers for the brand drug that  
14 you're now selling the generic for?  
15 MS. GERMANO: Objection to  
16 form.  
17 MR. MAIER: Objection to  
18 form, foundation.  
19 THE WITNESS: So I would not  
20 know what they have, but these are  
21 not prescribers, these are  
22 pharmacies who dispense brand  
23 Opana.  
24 BY MS. BAIG:

1 A. It's -- generic Connect is a  
2 McKesson program.  
3 Q. I see. And when he talks  
4 about targeting 500 pharmacies with  
5 significant brand sales, how would he  
6 have the data of the 500 pharmacies with  
7 significant brand sales?  
8 MR. BAILEY: Objection to  
9 form and foundation.  
10 THE WITNESS: So wholesalers  
11 would sell to pharmacies. They  
12 should have that data, while  
13 Actavis didn't.  
14 BY MS. BAIG:  
15 Q. Okay. Well, you would have  
16 that data to the extent that the  
17 wholesalers provided it to you in the  
18 chargeback data, correct? We discussed  
19 that earlier.  
20 MR. BAILEY: Objection to  
21 form.  
22 MS. GERMANO: Objection to  
23 form.  
24 MS. VENTURA: Objection to

1 Q. So high dispensers?  
2 A. Yes.  
3 Q. And they would target the  
4 high dispensers?  
5 MS. GERMANO: Objection to  
6 form.  
7 MR. MAIER: Objection to  
8 form.  
9 MR. BAILEY: Objection to  
10 form.  
11 BY MS. BAIG:  
12 Q. Is that right? He says it  
13 right here. "We are targeting only 500  
14 pharmacies with significant brand sales."  
15 Is that your understanding of what was  
16 happening?  
17 A. The 500 pharmacies?  
18 Q. Right.  
19 A. Yeah.  
20 Q. With significant brand  
21 sales?  
22 A. Yes.  
23 Q. So that suggests, does it  
24 not, that he's targeting pharmacies that

1 have higher sales?  
 2 MR. MAIER: Object to form.  
 3 THE WITNESS: With higher  
 4 sales, yes, in the past.  
 5 BY MS. BAIG:  
 6 Q. Do you know anything more  
 7 about the GenericsConnect phone campaign?  
 8 A. I don't know the details.  
 9 Q. Was that campaign such that  
 10 McKesson was going to be contacting  
 11 pharmacies by phone to market oxymorphone  
 12 ER?  
 13 MR. MAIER: Objection to  
 14 form.  
 15 MR. BAILEY: Objection to  
 16 form.  
 17 THE WITNESS: So this  
 18 program is specific to  
 19 oxymorphone, so that would be our  
 20 expectation that's what this phone  
 21 campaign would be, to make the  
 22 pharmacies aware of the  
 23 availability of the generic  
 24 oxymorphone ER.

1 involvement in training the people that  
 2 were calling the pharmacies about the  
 3 generic oxymorphone ER from McKesson,  
 4 correct?  
 5 MR. BAILEY: Objection to  
 6 form.  
 7 THE WITNESS: I did not have  
 8 involvement with the training.  
 9 BY MS. BAIG:  
 10 Q. And do you see he references  
 11 also a fax blast?  
 12 A. Yeah.  
 13 Q. Would you have had  
 14 involvement in -- in the materials that  
 15 were being blasted by fax?  
 16 A. There -- as far as I  
 17 understand, all these messages that they  
 18 proposed to do would have to go through  
 19 their legal reviews.  
 20 Q. Not yours, correct?  
 21 MS. VENTURA: Objection to  
 22 form.  
 23 THE WITNESS: We provide the  
 24 information to them. Those

1 BY MS. BAIG:  
 2 Q. And who were the people that  
 3 were making those phone calls, those were  
 4 McKesson employees?  
 5 MR. BAILEY: Objection,  
 6 form.  
 7 THE WITNESS: I do not know  
 8 who these people were.  
 9 BY MS. BAIG:  
 10 Q. Do you know whether they --  
 11 would you expect that they would be  
 12 people from McKesson's marketing  
 13 department?  
 14 MR. MAIER: Objection to  
 15 form, foundation.  
 16 THE WITNESS: I do not know  
 17 how they structured their  
 18 marketing program or -- nor the  
 19 employees.  
 20 BY MS. BAIG:  
 21 Q. You don't know anything  
 22 about that?  
 23 A. I don't.  
 24 Q. And you didn't have any

1 information would go through our  
 2 internal review. And I wouldn't  
 3 think it's any different from  
 4 the -- earlier the sell sheets or  
 5 the profile you've seen, similar  
 6 to that.  
 7 BY MS. BAIG:  
 8 Q. But you don't know because  
 9 you didn't review it, correct?  
 10 A. That's correct.  
 11 MR. BAILEY: Objection to  
 12 form.  
 13 BY MS. BAIG:  
 14 Q. And is that -- he discusses  
 15 also a mailer. Do you know what McKesson  
 16 was sending out in its mailers with  
 17 respect to oxymorphone ER?  
 18 MR. BAILEY: Objection to  
 19 form.  
 20 THE WITNESS: Mailer is --  
 21 so when they ship product, they  
 22 will include some additional  
 23 material in the -- in the box. So  
 24 that's what the mailer is for.



1 BY MS. BAIG:  
 2 Q. Okay.  
 3 A. Yeah.  
 4 Q. Do you know who Amber  
 5 Kehoe's product management team is?  
 6 A. Yes.  
 7 Q. Who is that?  
 8 A. That is McKesson product  
 9 management team who interacted with  
 10 manufacturers.  
 11 Q. Okay. So do you see the  
 12 e-mail here from John Hansen, director of  
 13 marketing at McKesson stating, "In  
 14 collaboration with Amber Kehoe's product  
 15 management team, I've put together a  
 16 marketing plan to promote awareness of  
 17 your recently launched oxymorphone ER  
 18 tablets."  
 19 Do you see that?  
 20 MR. BAILEY: Objection to  
 21 form.  
 22 THE WITNESS: Which page are  
 23 you looking at?  
 24 BY MS. BAIG:

1 Q. Okay. And on the next page,  
 2 do you see an e-mail from Ara Aprahamian?  
 3 A. Okay.  
 4 Q. What was his position again?  
 5 A. Ara?  
 6 Q. Mm-hmm.  
 7 A. He was the director of  
 8 pricing and contract.  
 9 Q. And do you see that he's  
 10 reached -- he's reaching out to Amber  
 11 Kehoe at McKesson stating, "As you know,  
 12 we have recently launched oxymorphone ER  
 13 7.5 milligrams and 15 milligrams,  
 14 (attached launch notice), and need your  
 15 assistance with the following: One, run  
 16 a query of brand Opana ER 7.5 milligrams  
 17 and 15-milligram sales within McKesson  
 18 for the past nine months to identify high  
 19 purchasing pharmacies."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. So you're relying on  
 23 McKesson to identify the high purchasing  
 24 pharmacies that you can then target for

1 Q. Next page.  
 2 A. Oh, I see. Yes, I saw that.  
 3 Mm-hmm.  
 4 Q. Okay. And do you see he  
 5 goes on to state, "I understand that you  
 6 are looking to target this to the  
 7 approximately 500 accounts with  
 8 significant brand purchase history and  
 9 have accounted for that in the proposal.  
 10 Please note, however, that many of our  
 11 communications vehicles can reach a  
 12 larger population at no additional  
 13 charge."  
 14 Do you see that?  
 15 A. Yes, I saw that.  
 16 Q. Do you know what  
 17 communications vehicles he's talking  
 18 about?  
 19 MS. GERMANO: Objection.  
 20 THE WITNESS: I would think  
 21 that's referring to the phone, the  
 22 fax, and the store -- and the  
 23 mailer.  
 24 BY MS. BAIG:

1 generics marketing; is that right?  
 2 MR. BAILEY: Objection to  
 3 form.  
 4 MR. MAIER: Objection to  
 5 form.  
 6 THE WITNESS: We're relying  
 7 on them to know these pharmacies.  
 8 BY MS. BAIG:  
 9 Q. That you can then have them  
 10 contact about generic oxymorphone,  
 11 correct?  
 12 A. Yes. Awareness. As you see  
 13 John wrote back saying to promote  
 14 awareness of the recently launched  
 15 oxymorphone ER tablets.  
 16 Q. And he goes on to state --  
 17 Ara goes on to state, "Coordinate a  
 18 stocking promotion/offer to those target  
 19 stores."  
 20 Do you see that?  
 21 A. Yes.  
 22 Q. Are there other types of  
 23 stocking promotion offers that you can  
 24 recall being used to promote generic

1       opioids?  
2           MR. MAIER: Objection to  
3           form.  
4           THE WITNESS: See,  
5           oxymorphone was a special case,  
6           because the brand discontinued and  
7           it was a very small volume  
8           product.  
9       BY MS. BAIG:  
10       Q. My question to you is, are  
11       there other types of stocking promotion  
12       offers that you can recall being used to  
13       promote generic opioids?  
14       MR. MAIER: Object to form.  
15       THE WITNESS: I do not  
16       remember at this time.  
17       BY MS. BAIG:  
18       Q. Okay. And then he goes on  
19       to state, "Item 3, ship product to those  
20       target stores, based on receiving  
21       pharmacy order inhouse." And then he  
22       goes on to state, "We are promoting  
23       awareness direct to physicians on the  
24       availability of Actavis generic

1           aware of the generic availability.  
2       BY MS. BAIG:  
3       Q. Oh. Who was doing the  
4       promotion direct to physicians?  
5       MR. MAIER: Objection to  
6       form.  
7       THE WITNESS: That's the  
8       Kadian sales team to make  
9       physicians aware of the  
10       availability of the generic  
11       product.  
12       BY MS. BAIG:  
13       Q. So that's not McKesson?  
14       A. That's not McKesson.  
15       Q. This e-mail is not  
16       contemplating McKesson doing that,  
17       that's --  
18       A. Oh no.  
19       Q. That's just Actavis doing  
20       that, correct?  
21       MR. MAIER: Objection to  
22       form.  
23       THE WITNESS: Yes.  
24       BY MS. BAIG:

1       oxymorphone ER 7.5 milligrams and  
2       15 milligrams, but facing some stocking  
3       challenges in the pharmacy and would like  
4       to partner with you on this."  
5       Do you see that?  
6       A. Yes.  
7       Q. Okay. So your understanding  
8       is that they were promoting awareness  
9       direct to physicians, correct?  
10       MR. BAILEY: Objection to  
11       form.  
12       MS. VENTURA: Objection to  
13       form.  
14       THE WITNESS: We were making  
15       the physician aware of the  
16       availability of our generic  
17       product.  
18       BY MS. BAIG:  
19       Q. But you are using McKesson  
20       to do that, correct?  
21       MR. BAILEY: Objection to  
22       form and foundation.  
23       THE WITNESS: We're using  
24       McKesson to make the pharmacy

1       Q. Are you familiar with --  
2       MS. GERMANO: Counsel, are  
3       we moving into a new area? I'm  
4       just watching the clock.  
5       MS. BAIG: Maybe.  
6       MS. GERMANO: I'm wondering  
7       if this is a good time to break  
8       for lunch?  
9       MS. BAIG: We can.  
10       THE VIDEOGRAPHER: Going off  
11       record. The time is 12:28.  
12       - - -  
13       (Lunch break.)  
14       - - -  
15       AFTERNOON SESSION  
16       - - -  
17       THE VIDEOGRAPHER: We are  
18       going back on the record. This is  
19       the beginning of Media File  
20       Number 6. The time is 1:16.  
21       - - -  
22       EXAMINATION (Cont'd.)  
23       - - -  
24       (Document marked for

1 identification as Exhibit  
 2 Allergan-McCormick-9.)  
 3 BY MS. BAIG:  
 4 Q. I'll have this document  
 5 marked as Exhibit 9. This document is  
 6 Bates stamped Actavis 86122 through 128.  
 7 MS. VENTURA: If I can just  
 8 note for the record, this document  
 9 was reproduced with an MDL Bates  
 10 number and a confidentiality  
 11 designation. I'll state that once  
 12 in case any similar documents are  
 13 introduced later in the  
 14 deposition, and we would just like  
 15 to replace those with the MDL  
 16 Bates-stamped version that has the  
 17 confidentiality designation.  
 18 MS. BAIG: Okay.  
 19 BY MS. BAIG:  
 20 Q. This starts as an e-mail  
 21 from you to David Marlow dated August 22,  
 22 2011. Who is David Marlow?  
 23 A. He was a supply chain  
 24 manager.

1 it stands for?  
 2 A. I don't. It's a company we  
 3 acquired. It starts with an A, Abrika.  
 4 Q. And was it a company that  
 5 was working on opioid products?  
 6 A. We acquired them, that --  
 7 that company had fentanyl patch. Or  
 8 developed fentanyl patch.  
 9 Q. They developed the fentanyl  
 10 patch?  
 11 A. They developed the generic  
 12 fentanyl patch.  
 13 Q. And who would -- who did you  
 14 work with from that company?  
 15 A. That's -- I didn't work with  
 16 anyone when it was its own company. I  
 17 worked with people after they were  
 18 acquired by Actavis.  
 19 Q. Who did you work with?  
 20 A. I didn't really work with  
 21 anyone particularly from there, that  
 22 site, because it was just part of the  
 23 company as a whole.  
 24 Q. Well, who -- who do you know

1 Q. At Actavis?  
 2 A. Yes.  
 3 Q. Okay. And it states a  
 4 little further down, "Attached please  
 5 find quarter 2 2011 market share book  
 6 based on the most recent IMS data ending  
 7 June 2011."  
 8 And it sets forth that there  
 9 are five reports attached. Do you see  
 10 that?  
 11 A. Yes.  
 12 Q. Part 1 is top competitor,  
 13 top products report. Report 2 is SOD  
 14 which includes all SOD entities. What is  
 15 SOD?  
 16 A. Solid oral dose. Solid oral  
 17 dose.  
 18 Q. Okay.  
 19 A. Product.  
 20 Q. Does that -- and what's ASA  
 21 that's listed there?  
 22 A. It's ASA in South Florida,  
 23 it's one of the entities of Actavis.  
 24 Q. Okay. Do you remember what

1 shifted in from ASA?  
 2 A. There isn't -- there wasn't  
 3 anyone from -- for the sales and  
 4 marketing.  
 5 Q. Do you recall anyone at all?  
 6 A. Yeah. Dale, I can't  
 7 remember his last name. He passed away.  
 8 He was doing business development.  
 9 Q. Do you remember anybody else  
 10 that came in from ASA?  
 11 A. There was product -- so  
 12 the -- the head of R&D. It was Jim  
 13 Huang. I knew him.  
 14 Q. Anybody else?  
 15 A. There were people doing --  
 16 in the operations, Rudy Zulickman.  
 17 Q. So ASA was acquired by  
 18 Actavis?  
 19 A. Yes.  
 20 Q. And once it was acquired by  
 21 Actavis, who marketed its fentanyl patch?  
 22 Your team did?  
 23 A. Yes.  
 24 Q. And what is ELZ?

1 A. That's Elizabeth site. It's  
 2 one of the manufacturing facilities of  
 3 Actavis.  
 4 Q. In New Jersey?  
 5 A. Yes.  
 6 Q. And what's third party refer  
 7 to?  
 8 A. Meaning our partners who  
 9 were not part of the Actavis company.  
 10 Q. You mean your clients?  
 11 A. No. We have -- so it's  
 12 partners for products. They could be  
 13 contract manufacturing. They could be  
 14 contract manufacturers of our product or  
 15 they could be partner meaning they  
 16 developed the product and we marketed  
 17 their product.  
 18 Q. Okay. So who are those, as  
 19 far as the opioids were concerned?  
 20 A. As far as opioids were  
 21 concerned, I don't think there is -- I'm  
 22 thinking about the product -- no, I don't  
 23 think there was any other than fentanyl  
 24 patch.

1 with -- using the IMS data?  
 2 A. Yes. This is the -- one of  
 3 the report we talked about or referred to  
 4 earlier.  
 5 Q. Mm-hmm. So you have  
 6 Greenstone products, Mylan top products,  
 7 Sandoz products, these are your  
 8 competitors' products?  
 9 A. These were product of those  
 10 companies that's under the title, under  
 11 the heading.  
 12 Q. So if you -- so if you look,  
 13 for example, at the Mallinckrodt page,  
 14 Mallinckrodt top products ranked by Q2  
 15 '11 IMS sales.  
 16 A. Yes.  
 17 Q. What was the purpose of  
 18 putting this together? Did you create  
 19 it, first of all?  
 20 A. I did.  
 21 Q. For what purpose?  
 22 A. Just for knowing our  
 23 competitors.  
 24 Q. For understanding what --

1 Q. Because everything else was  
 2 happening within Actavis, is that what  
 3 you're saying?  
 4 A. The product we discussed,  
 5 the opioid, they were all manufactured by  
 6 Actavis itself except fentanyl patch.  
 7 Q. Okay. And that was  
 8 manufactured by ASA until ASA was  
 9 acquired?  
 10 A. The fentanyl patch was  
 11 developed by ASA, manufactured by Corium.  
 12 Corium is an independent company.  
 13 Q. Okay.  
 14 A. They were the contract  
 15 manufacturer.  
 16 Q. Okay. And they continued to  
 17 be the contract manufacturer even after  
 18 Actavis acquired ASA; is that right?  
 19 A. That's correct.  
 20 Q. Okay. What does SSL stand  
 21 for?  
 22 A. Semi-solid and liquid.  
 23 Q. Now, are these the types of  
 24 reports that you would put together

1 what about your competitors exactly?  
 2 A. Just as a part of the normal  
 3 course of business, we all want to  
 4 understand what the competitors were  
 5 doing, what products they had, and, yeah.  
 6 Q. And where you have the  
 7 column that has 12-month growth versus  
 8 prior period, is that sales growth?  
 9 A. That's volume growth in  
 10 extended units.  
 11 Q. What does that -- what does  
 12 that tell you?  
 13 A. Okay. So there are two  
 14 columns. It says 12-month growth, right?  
 15 Q. Mm-hmm.  
 16 A. The one to the left is the  
 17 growth in IMS sales dollars. The one to  
 18 the far right is the growth based on  
 19 volume of extended units.  
 20 Q. Based on volume of extended  
 21 units, what does that mean?  
 22 A. Extended unit is IMS term.  
 23 And it's -- for oral solids, it's one  
 24 pill. For liquid it's a gram.

1 Q. So you have it in terms of  
2 dollars and in terms of pills or grams;  
3 is that right?

4 A. In this particular contact,  
5 it would be the pills.

6 Q. The -- the far right column?

7 A. Yeah, that's the -- the  
8 percentages based on the prior volume you  
9 could -- you know, the calculation based  
10 on the column preceding that.

11 Q. Okay. So if you look, for  
12 example, at oxycodone HCL. You have a  
13 7 percent growth in terms of sales  
14 dollars.

15 MR. MAIER: Objection to  
16 form.

17 BY MS. BAIG:

18 Q. Is that right?

19 A. So --

20 Q. For Mallinckrodt.

21 A. In that file you are looking  
22 at 7 percent growth of IMS sales for the  
23 12-month period.

24 Q. For oxycodone HCL for

1 Mallinckrodt.

2 A. For that particular product.

3 Q. Okay. And then you also see  
4 a 9 percent growth in terms of the actual  
5 pills; is that right?

6 MR. MAIER: Objection to  
7 form.

8 THE WITNESS: That's what it  
9 shows, a 9 percent growth.

10 BY MS. BAIG:

11 Q. Okay. And if you -- if you  
12 move several pages past that, you see a  
13 different type of document that's headed  
14 SOD - Elizabeth and third-party product  
15 market share grid. Do you see that?

16 A. Yes.

17 Q. And you created this  
18 document?

19 A. So my team created the --  
20 the document. It could be multiple  
21 people working on this.

22 Q. Okay. And what purpose was  
23 this document created for?

24 A. This entire document was for

1 monitoring the competitors as well as  
2 knowing the market by product, how -- you  
3 know, how we performed and how we  
4 performed against our competitors.

5 Q. When you say this entire  
6 document, you mean the whole exhibit,  
7 correct?

8 A. I mean --

9 Q. Or just even the --

10 A. -- this entire market share  
11 report is, you know, part of the market  
12 research.

13 Q. Okay.

14 A. We know where our business  
15 is at.

16 Q. And this particular grid  
17 that we're looking at right now?

18 A. Yeah. This particular is  
19 just a summary of the pages behind it.

20 Q. Okay. So this, for example,  
21 is showing, for fentanyl transdermal,  
22 it's showing -- is this showing Actavis'  
23 market share in the first column for  
24 quarter 1 of 2011?

1 A. Yes. The 8.5 will be the Q1  
2 2011 market share.

3 Q. That's Actavis' market share  
4 of fentanyl transdermal?

5 A. Yes.

6 Q. Okay. And if you look on  
7 the next page, then you see that for the  
8 first quarter of 2011, Actavis' market  
9 share for oxycodone IR tablets was  
10 44.1 percent; is that right?

11 MR. KNAPP: Objection to  
12 form.

13 MR. MAIER: Objection to  
14 form.

15 THE WITNESS: This is how  
16 it's captured based on the  
17 calculation of the IMS -- IMS  
18 data.

19 BY MS. BAIG:

20 Q. Okay. And there's no  
21 percentage listed for oxymorphone ER  
22 tabs. Do you know why that is?

23 A. I don't know. Was it  
24 launched or did -- what time -- which



1 timeline this was. 2011.

2 Q. It was prelaunch?

3 A. It could be. I don't know  
4 when the launch time -- it could be two  
5 reasons. One is it wasn't launched.  
6 Two, if we launched, maybe IMS didn't  
7 capture any data.

8 Q. Okay. And the next chart is  
9 labeled "SSL House Label Market Share  
10 Grid Report, Q2, 2011, IMS data."

11 What is this chart intending  
12 to show?

13 A. This is the same as the  
14 prior ones. It's a summary of the pages  
15 of specific products, market share, just  
16 for the semi-solids and liquid products.

17 Q. I see. So different  
18 products?

19 A. Yeah.

20 Q. Okay. And then there are a  
21 series of sheets that follow. What types  
22 of reports are these?

23 A. Each page is for one  
24 product.

1 Q. And they're created why?

2 A. So as part of the marketing  
3 department function, we always want to  
4 know how we're performing and what the  
5 size of the market was and how the market  
6 was changing.

7 Q. So if you flip to the one  
8 that is discussing the buprenorphine  
9 naloxone sublingual tablets, in  
10 parentheses it says Suboxone.

11 A. Okay.

12 Q. What is it showing Actavis'  
13 market share for that product?

14 A. So Actavis was not here  
15 because it was not launched.

16 Q. So what does this report  
17 show then?

18 A. So if you look at the front  
19 of the e-mail, this could have marketed  
20 product, but could also have the  
21 potential new product to be launched in  
22 the short-term. So this is example of a  
23 new product that Actavis had not launched  
24 but in the pipeline.

1 Q. I see. That's why it says  
2 generic share zero?

3 A. So there were other  
4 people -- there were other manufacturers  
5 in the market for this product. And  
6 that's why they -- they were shown there.  
7 For example, Teva has 17.1 percent. So  
8 there were other manufacturers in  
9 generic.

10 Q. Where are you seeing Teva?

11 MS. VENTURA: I think she's  
12 on the page prior to it.

13 THE WITNESS: Buprenorphine  
14 is --

15 BY MS. BAIG:

16 Q. Oh, you're looking at  
17 Subutex?

18 A. I'm looking at the  
19 buprenorphine sublingual tablets.

20 Q. If you look at the next  
21 page --

22 A. Oh, I see.

23 Q. -- that's the buprenorphine  
24 naloxone.

1 A. Okay. Got it.

2 Q. So what is the -- does  
3 Actavis have market share in this drug at  
4 this point?

5 A. No. Actavis did not. It  
6 was not launched.

7 Q. Okay. So same issue. So  
8 that's why it says generic share zero all  
9 the way across; is that right?

10 A. Yes. There was no generic  
11 on the market.

12 Q. Okay. And did you include  
13 this in here because Actavis was  
14 considering bringing the generic drug to  
15 market?

16 A. We were working on that.

17 Q. Okay. If you go several  
18 pages further on -- four or five pages  
19 further, you see morphine sulfate ER  
20 capsules, Kadian.

21 Do you see that?

22 A. Yes.

23 Q. And you created these  
24 documents?

1 A. Yeah, my group did.  
 2 Q. Okay. So your group was  
 3 creating or doing certain trend analyses  
 4 for not only the generic drugs but also  
 5 the branded drugs; is that right?  
 6 MR. MAIER: Objection to form.  
 7 THE WITNESS: This was not  
 8 analysis for the brand. This was  
 9 in the same situation as Suboxone,  
 10 that it's a product that we could  
 11 potentially launch as a generic.  
 12 So it was included in the report  
 13 from the generic perspective.  
 14 BY MS. BAIG:  
 15 Q. I see. And what did this  
 16 report serve to tell you about the drug?  
 17 A. So for the product, whether  
 18 it's existing generic or pipeline  
 19 product, what it tells is what the IMS  
 20 sales were, what the IMS volume were, and  
 21 the change in the market.  
 22 Q. So total IMS sales were  
 23 268 --  
 24 A. Million.

1 BY MS. BAIG:  
 2 Q. Oh, they didn't -- Actavis  
 3 did not market five-milligram?  
 4 MR. MAIER: Objection to  
 5 form.  
 6 THE WITNESS: That's  
 7 correct.  
 8 BY MS. BAIG:  
 9 Q. Okay. And so where you have  
 10 down here competitive share, those are  
 11 all the companies that did market --  
 12 A. Yes.  
 13 Q. -- this drug --  
 14 MR. MAIER: Objection.  
 15 BY MS. BAIG:  
 16 Q. -- at the -- at the five  
 17 milligrams level.  
 18 MR. MAIER: Objection.  
 19 BY MS. BAIG:  
 20 Q. And looking at the last page  
 21 of the report, you have generic company  
 22 ranking report.  
 23 Do you see that?  
 24 A. Yes.

1 Q. -- million. And that's in  
 2 the market overall for all of the  
 3 companies that had this drug, correct?  
 4 MS. VENTURA: Objection to  
 5 form.  
 6 THE WITNESS: So that's the  
 7 IMS-reported sales for Kadian  
 8 itself. And Kadian was only  
 9 marketed by Actavis.  
 10 BY MS. BAIG:  
 11 Q. I see. And if you move to  
 12 the next page, two pages down, you see  
 13 oxycodone tablets?  
 14 A. Yes.  
 15 Q. And here it shows the total  
 16 sales are \$57 million; is that right?  
 17 A. Yes. This is only for the  
 18 five-milligram.  
 19 Q. I see. Okay. And Actavis  
 20 was marketing this drug, correct?  
 21 MR. MAIER: Objection to  
 22 form.  
 23 THE WITNESS: Actavis did  
 24 not market this drug.

1 Q. And this has Actavis ranked  
 2 Number 11 in what?  
 3 A. So you go to the e-mail I  
 4 wrote to the group, for distribution.  
 5 "Generic company ranking report based on  
 6 IMS total scripts dispensed."  
 7 So it's based on, if you  
 8 look at the volume here, ranking --  
 9 there's also a footnote to that page.  
 10 "Ranking based on IMS total TRx dispensed  
 11 for the second quarter 2011."  
 12 Q. So total prescriptions  
 13 dispensed of all generic drugs?  
 14 A. Of all generic drugs. So if  
 15 you were to look at the last column with  
 16 the number, that's a 12 -- not the last  
 17 one. The Q2, the quarter labeled "Q2  
 18 JNE/11 TRx," it should be based on  
 19 that -- that number.  
 20 Q. Which column are you looking  
 21 at?  
 22 A. So the fifth from the right.  
 23 Q. The fifth from the right  
 24 shows what, exactly, \$17 million?

1 A. So 17 million scripts  
 2 dispensed.  
 3 Q. Generic scripts dispensed?  
 4 A. Generic scripts.  
 5 Q. Okay.  
 6 A. In all products.  
 7 Q. That's all products.  
 8 What percentage of your  
 9 generic scripts were opioid scripts? Do  
 10 you know?  
 11 A. I don't know.  
 12 Q. Do you know roughly?  
 13 A. No. We never tracked it  
 14 that way.  
 15 (Document marked for  
 16 identification as Exhibit  
 17 Allergan-McCormick-10)  
 18 BY MS. BAIG:  
 19 Q. I'll have this document  
 20 marked as Exhibit 10. This is a document  
 21 Bates stamped 945856 through 858. It's  
 22 an e-mail from you to Michael Perfetto  
 23 and others dated September 1st, 2011,  
 24 entitled oxymorphone ER pharmacy

1 placement details via chargeback.  
 2 Do you see that?  
 3 A. Yes.  
 4 Q. Okay. And it states, "To  
 5 begin, the detailed chargeback finance  
 6 has processed provide us a good picture  
 7 of oxymorphone ER stocking at the  
 8 pharmacy level. Since launching in  
 9 July 15th, a total number of 671  
 10 pharmacies had submitted chargeback for  
 11 883 bottles on 15 milligrams."  
 12 That's 15 milligrams of  
 13 oxymorphone, correct?  
 14 A. Yes.  
 15 Q. And then it goes on to  
 16 state, "Details of pharmacy locations are  
 17 in the attached file."  
 18 And that "Walmart is leading  
 19 the chargeback." Do you see that?  
 20 A. Yes.  
 21 Q. Okay. So is this an example  
 22 of the type of chargeback data that we  
 23 discussed earlier which allowed you to  
 24 track -- which allowed you to track

1 exactly where your pills were -- were  
 2 winding up?  
 3 MR. MAIER: Objection to  
 4 form.  
 5 THE WITNESS: So this is a  
 6 chargeback data available,  
 7 submitted by wholesalers or  
 8 distributors.  
 9 BY MS. BAIG:  
 10 Q. Mm-hmm. For what purpose?  
 11 A. So they submit it actually  
 12 for -- for the most part, for finance  
 13 purpose.  
 14 Q. So that if they are entitled  
 15 to a chargeback, then you can then pay  
 16 them based on the date that that they  
 17 submit to you, correct?  
 18 A. Yes.  
 19 Q. Okay. And this allows you  
 20 to track which pharmacies are dispensing  
 21 your drugs, correct?  
 22 MR. MAIER: Object to form.  
 23 THE WITNESS: So this does  
 24 have pharmacy level data.

1 BY MS. BAIG:  
 2 Q. Does this chargeback data  
 3 allow you to track your downstream  
 4 customers?  
 5 MR. MAIER: Object to form.  
 6 THE WITNESS: In theory,  
 7 yes.  
 8 BY MS. BAIG:  
 9 Q. Why do you say in theory?  
 10 A. Just because this is a newly  
 11 launched product in a small volume, so  
 12 this is due to the phase of launch, and  
 13 we can see how -- where the product is  
 14 going.  
 15 Q. But generally speaking, the  
 16 chargeback data allows you to track the  
 17 drugs to your downstream customers; is  
 18 that right?  
 19 MR. MAIER: Object to form.  
 20 THE WITNESS: That's  
 21 correct.  
 22 BY MS. BAIG:  
 23 Q. And did you have access to  
 24 the chargeback data?

1 A. Yeah, I have access.  
 2 Q. Where was the chargeback  
 3 data stored?  
 4 A. It's in the company's ERP  
 5 system.  
 6 Q. When you look at the first  
 7 page of the chargeback data, do you see,  
 8 for example, it lists -- it lists access  
 9 drugs as the first row. Do you see that?  
 10 A. Yes.  
 11 Q. And then it has the address  
 12 of access drugs in Chattanooga,  
 13 Tennessee. And the product identifier  
 14 identifies which product we are talking  
 15 about, right?  
 16 A. Yes.  
 17 Q. And what is the "sum to"  
 18 there, what does that refer to there?  
 19 A. That's the number of bottles  
 20 submitted chargeback from the period  
 21 identified in the -- in running the  
 22 report.  
 23 Q. So they would receive --  
 24 what -- what does the sum tell you? You

1 give them a certain amount of money based  
 2 on that sum; is that right?  
 3 A. No. So the report is since  
 4 launching July 15th, so you see as of  
 5 August 31st. So that means that this is  
 6 from July 15th to August 31st. And this  
 7 is the chargeback, the number of bottles,  
 8 that's two bottles, submitted by the  
 9 wholesalers that the drug went to this  
 10 particular pharmacy.  
 11 So it's a number of  
 12 bottles -- not necessarily received, but  
 13 submitted by the wholesaler to claim  
 14 chargeback.  
 15 Q. So you would then pay the  
 16 wholesaler a chargeback amount based on  
 17 two bottles; is that right?  
 18 A. That's correct.  
 19 Q. Whatever the agreed upon  
 20 amount was that would be reflected in the  
 21 contract; is that right?  
 22 MR. MAIER: Objection to  
 23 form.  
 24 THE WITNESS: So the

1 agreed -- there is such thing as  
 2 agreed -- agreed upon quantity.  
 3 The chargeback is -- is a -- the  
 4 difference between the WAC price  
 5 and the contract price, the  
 6 difference is the chargeback.  
 7 BY MS. BAIG:  
 8 Q. So that difference would be  
 9 paid for two bottles for this particular  
 10 row?  
 11 A. Yes.  
 12 Q. Okay. Did you use this  
 13 chargeback data for purposes of  
 14 suspicious order monitoring?  
 15 MS. VENTURA: Objection to  
 16 form.  
 17 MR. MAIER: Objection to  
 18 form.  
 19 THE WITNESS: In -- so we  
 20 have a suspicious order monitoring  
 21 system, the Safe and Secure in  
 22 ValueTrak that would have this  
 23 kind of data that would be -- can  
 24 be used for suspicious order

1 monitoring.  
 2 BY MS. BAIG:  
 3 Q. And do you know if anyone  
 4 was tracking the chargeback data for  
 5 purposes of suspicious order monitoring?  
 6 MR. MAIER: Object to form.  
 7 THE WITNESS: So we have a  
 8 fairly extensive suspicious order  
 9 monitoring program. And the  
 10 product manager will be looking at  
 11 this. But we also rely on the  
 12 system to set flags to -- to flag  
 13 the suspicious activity.  
 14 BY MS. BAIG:  
 15 Q. That's the automated system  
 16 we discussed earlier?  
 17 A. Yes.  
 18 Q. And do you know when that  
 19 was put in place?  
 20 MS. VENTURA: Objection to  
 21 form.  
 22 THE WITNESS: I don't  
 23 remember specifically. It was  
 24 during the period of, I think,

1 2011.

2 BY MS. BAIG:

3 Q. Did you yourself work with  
4 the chargeback data at all for purposes  
5 of suspicious order monitoring?

6 A. It's a small team, so I  
7 certainly participated in many of the  
8 activities.

9 Q. But my question specifically  
10 is whether you worked with chargeback  
11 data to review chargeback data for  
12 purposes of suspicious order monitoring?

13 A. So chargeback data could  
14 be -- I mean, we could receive chargeback  
15 data on many, many product. And  
16 certainly chargeback data is one of the  
17 tools that we would use to, yeah, to do  
18 the suspicious order monitoring.

19 Q. Do you recall any specific  
20 instances when you looked at chargeback  
21 data for suspicious order monitoring  
22 purposes for an opioid?

23 A. So much is day-to-day  
24 activity, I don't recall anything that

1 really stands out as of today.

2 (Document marked for  
3 identification as Exhibit  
4 Allergan-McCormick-11.)

5 BY MS. BAIG:

6 Q. I'll have this document  
7 marked as -- as Exhibit 11.

8 This document is Bates  
9 stamped Actavis 1129567 through 568.  
10 However, I note that 568 is a multi-page  
11 document entitled morphine ER capsules  
12 chargeback trend details.

13 And here is an e-mail from  
14 you to Rachelle Galant and others dated  
15 February 7, 2012, with the subject  
16 morphine ER CB trend details. Do you see  
17 that?

18 A. Yes.

19 Q. Okay. And you are stating  
20 here that "we can run trend report for  
21 the indirect store level too."

22 Do you see that?

23 A. Yes.

24 Q. You go on to state, "It

1 might be helpful occasionally for a  
2 variety of purposes, e.g., monitoring  
3 product placement, SOM(?)" -- you have a  
4 question mark there -- "unusable, change  
5 in trend in CB."

6 Do you see that?

7 A. Yes.

8 Q. And CB is chargeback, right?

9 A. Chargeback.

10 Q. Okay. Do you recall what  
11 the nature of this communication was?

12 A. I don't. I mean, it's very  
13 common business activities to, you know,  
14 to run various reports.

15 Q. Do you know why you put a  
16 question mark next to SOM?

17 A. I think it refers to the  
18 specific report because the suspicious  
19 order monitoring, we're looking at  
20 mostly -- not mostly -- often to have the  
21 order of interest, right. This is  
22 chargeback. That means it's already  
23 shipped and chargeback were submitted.

24 Q. I see. So the chargeback

1 data shows products that are already  
2 shipped?

3 A. Yes.

4 Q. And was that why there was a  
5 question mark placed as to whether or not  
6 it would be useful for suspicious order  
7 monitoring?

8 MR. MAIER: Objection to  
9 form.

10 THE WITNESS: I don't  
11 remember exactly the analysis, or  
12 the thought that went through my  
13 mind when I wrote the e-mail. I  
14 would reasonably guess that would  
15 be the reason.

16 BY MS. BAIG:

17 Q. Okay. And the lower e-mail  
18 is also from you to Nathalie Leitch, and  
19 it states, "I will run this monthly for  
20 your team."

21 Are you talking about the  
22 chargeback data?

23 A. This particular, yes, this  
24 is the chargeback data trend.



1 Q. So you yourself would  
2 actually go into the chargeback system  
3 and run the data. You wouldn't simply  
4 request it from somebody else; is that  
5 right?

6 A. I could actually request  
7 from someone else.

8 Q. So when you're saying, "I  
9 will run this monthly for your team," did  
10 you wind up doing that? Did you run  
11 chargeback data monthly for the team?

12 MS. VENTURA: Objection to  
13 form.

14 THE WITNESS: I don't recall  
15 whether I run it or I requested it  
16 and someone else run the report.

17 BY MS. BAIG:

18 Q. Okay. You had it run.  
19 Okay.

20 And if you look at the first  
21 page of the chargeback trend details, it  
22 starts with morphine sulfate.

23 Do you see that?

24 A. Yes.

1 Q. And in the far right column  
2 there's a number of 27,625?

3 A. Yes.

4 Q. What does that refer to?

5 A. That's the sum of the prior  
6 four period.

7 Q. The sum of what?

8 A. Of the 2,984, the 12,301,  
9 11,011 and 1,329.

10 Q. Right. But what do those  
11 figures reflect?

12 A. Oh, those are the bottles.

13 Q. The number of bottles of  
14 morphine sulfate that were charged back?

15 A. Yes.

16 (Document marked for  
17 identification as Exhibit  
18 Allergan-McCormick-12.)

19 BY MS. BAIG:

20 Q. I'll have this document  
21 marked as Exhibit 12. This is a document  
22 Bates-stamped ACTAVIS\_328319 through  
23 328335. It starts as an e-mail from you  
24 to Michael Dorsey, Mike Perfetto, Ara

1 Aprahamian, dated January 10th, 2012.  
2 The subject is, "Dr. Schwartz -  
3 pharmacies."

4 Do you see that?

5 A. Yes.

6 Q. Okay. Do you recall a  
7 certain high prescriber by the name of  
8 Dr. Schwartz?

9 MR. MAIER: Object to form.

10 THE WITNESS: I just saw it  
11 here.

12 BY MS. BAIG:

13 Q. You don't recall -- have an  
14 independent recollection --

15 A. No, I don't.

16 Q. -- of a discussion about  
17 Dr. Schwartz?

18 A. No, I don't.

19 Q. Okay. Who's -- Patrick  
20 McClanahan was the regional business  
21 director; is that right?

22 A. He was one of the business  
23 director, yes.

24 Q. At Actavis?

1 A. Yes.

2 Q. I'm looking at the last  
3 page, and it says Actavis/inVentiv. Do  
4 you know whether he worked at Actavis or  
5 inVentiv?

6 A. So he was an employee of  
7 inVentiv but worked for Actavis account.

8 Q. Okay. And were there  
9 employees of inVentiv that were not only  
10 marketing brand drugs but also marketing  
11 generic drugs?

12 MR. MAIER: Objection to  
13 form.

14 THE WITNESS: No. All the  
15 inVentiv people were working for  
16 the Actavis brand. None of them  
17 were working for generic.

18 BY MS. BAIG:

19 Q. So you don't have any  
20 knowledge of Michelle Altier's training  
21 inVentiv employees with respect to  
22 talking to doctors about generic drugs?

23 MS. VENTURA: Objection to  
24 form.

1 THE WITNESS: I do not have  
2 knowledge of her training.  
3 BY MS. BAIG:  
4 Q. Do you have knowledge that  
5 that in fact happened?  
6 A. I do not have knowledge of  
7 that.  
8 Q. Okay. I think I misspoke  
9 when I said Michelle Altier. I meant  
10 Jennifer.  
11 A. Jennifer.  
12 Q. Did you know who I was  
13 talking to -- talking about?  
14 A. I think so.  
15 Q. Okay. All right. So  
16 there's an e-mail here from Patrick  
17 McClanahan to Nathalie Leitch towards the  
18 beginning of the string. And he says he  
19 spoke with Dr. Schwartz's office late  
20 Friday and that they're having trouble  
21 finding generic Kadian.  
22 Do you see that general  
23 reference?  
24 A. Yes.

1 to the pharmacy? That's Patrick  
2 McClanahan's job?  
3 A. Oh, you mean as a "we," what  
4 that "we" might be?  
5 Q. "We would send" -- "I told  
6 her that we would send out communication  
7 to the retail pharmacies." Who is it  
8 that's sending out communications to the  
9 retail pharmacies about generic Kadian?  
10 A. I do not know.  
11 Q. You don't know. That  
12 typically wouldn't come from your  
13 department?  
14 A. No.  
15 Q. And do you see a little  
16 further up the page, there's a reference.  
17 It says, "Mike D., Steve, what would you  
18 suggest? Can you call the distribution  
19 center to send products? For CVS, would  
20 we call wholesaler or call pharmacy  
21 directly?"  
22 Do you know what that is  
23 referring to?  
24 A. Yes. Because this pharmacy

1 Q. And he goes on to state, "I  
2 told her that we would send out  
3 communication to the retail pharmacies in  
4 the Oklahoma area and make sure they have  
5 access to generic Kadian."  
6 Do you see that?  
7 A. Yes.  
8 Q. Is that -- is that sort of  
9 communication something that you would  
10 have been in charge of?  
11 A. No.  
12 Q. And so why is he looping you  
13 in on all of this?  
14 MR. MAIER: Objection to  
15 form.  
16 THE WITNESS: Because I was  
17 in charge of the generic Kadian.  
18 And their pharmacy could not --  
19 so, basically, the patient could  
20 not find the generic Kadian at a  
21 local pharmacy.  
22 BY MS. BAIG:  
23 Q. Okay. So who is going to  
24 be -- who's going to do the communication

1 in Oklahoma City could not get product.  
2 It came to me. I was asking the team how  
3 could we get the product to this  
4 pharmacy. Those were some of the  
5 suggestions.  
6 Q. I see. And do you see at  
7 the top of the page where it states,  
8 "Need to put some generic Kadian to the  
9 following pharmacies in Oklahoma City.  
10 This doctor is one of the top prescribers  
11 in Kadian."  
12 Do you see that?  
13 A. Yes.  
14 Q. And you wrote that?  
15 A. I wrote that.  
16 Q. How did you know that he was  
17 one of the top prescribers in Kadian?  
18 A. I must have talked to  
19 Nathalie and her team.  
20 Q. Well, what data would have  
21 been available to you or Nathalie that  
22 would show that Dr. Schultz (sic) was a  
23 top prescriber?  
24 MS. VENTURA: Objection.

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<p>1 MR. MAIER: Objection.</p> <p>2 Form. Foundation.</p> <p>3 THE WITNESS: I did not have</p> <p>4 direct access to the Kadian</p> <p>5 prescriber data. But Nathalie and</p> <p>6 her team had data.</p> <p>7 BY MS. BAIG:</p> <p>8 Q. Where does that data come</p> <p>9 from, the prescriber data?</p> <p>10 MS. GERMANO: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: So the data</p> <p>13 could come from either Wolters</p> <p>14 Kluwer or IMS.</p> <p>15 BY MS. BAIG:</p> <p>16 Q. Okay. So I thought you</p> <p>17 testified earlier that you did not</p> <p>18 purchase prescriber data from IMS?</p> <p>19 A. For the generic business, I</p> <p>20 did not purchase any data with prescriber</p> <p>21 details.</p> <p>22 Q. So for the brand name</p> <p>23 opioids, the company was purchasing</p> <p>24 prescriber data?</p>	<p>1 MS. VENTURA: Objection,</p> <p>2 foundation.</p> <p>3 MR. MAIER: Object to form.</p> <p>4 THE WITNESS: I think any</p> <p>5 brand company would have</p> <p>6 prescriber data.</p> <p>7 BY MS. BAIG:</p> <p>8 Q. You mean -- my question is,</p> <p>9 did Actavis have the prescriber data?</p> <p>10 MS. VENTURA: Objection,</p> <p>11 foundation.</p> <p>12 MR. MAIER: Objection.</p> <p>13 THE WITNESS: I think</p> <p>14 Actavis did have Kadian prescriber</p> <p>15 data.</p> <p>16 BY MS. BAIG:</p> <p>17 Q. And did it have generic</p> <p>18 Kadian prescriber data?</p> <p>19 A. See, I didn't have access to</p> <p>20 that data. I don't know what was in the</p> <p>21 data.</p> <p>22 Q. But if you look further</p> <p>23 down, we're talking about generic Kadian.</p> <p>24 We're not talking about brand name</p>
Page 203	Page 204
<p>1 Kadian, right?</p> <p>2 MR. MAIER: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: That's</p> <p>5 correct. But when doctor writes a</p> <p>6 script, I don't -- so doctor</p> <p>7 typically writes the brand name.</p> <p>8 When the product was</p> <p>9 dispensed at a pharmacy, pharmacy</p> <p>10 could have the option to</p> <p>11 substitute it with a generic</p> <p>12 product. So doctor typically do</p> <p>13 not write generic product, just in</p> <p>14 general.</p> <p>15 BY MS. BAIG:</p> <p>16 Q. But my question is simply</p> <p>17 whether or not Actavis had access to</p> <p>18 prescriber data for generic Kadian. This</p> <p>19 e-mail seems to suggest that it did,</p> <p>20 because it states that this is one of the</p> <p>21 top prescribers.</p> <p>22 MR. MAIER: Object to form.</p> <p>23 MS. VENTURA: Objection.</p> <p>24 Form.</p>	<p>1 THE WITNESS: So Actavis had</p> <p>2 the prescriber data for Kadian.</p> <p>3 The prescriber data didn't</p> <p>4 necessarily distinguish whether</p> <p>5 it's brand or generic.</p> <p>6 BY MS. BAIG:</p> <p>7 Q. I see. And that prescriber</p> <p>8 data came from IMS?</p> <p>9 A. Yes.</p> <p>10 MS. VENTURA: Objection.</p> <p>11 Form.</p> <p>12 THE WITNESS: Well, let me</p> <p>13 correct. Could come from IMS. It</p> <p>14 could also come from Wolters</p> <p>15 Kluwer.</p> <p>16 BY MS. BAIG:</p> <p>17 Q. And where was the data</p> <p>18 housed at Actavis?</p> <p>19 MS. VENTURA: Objection.</p> <p>20 Foundation.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 BY MS. BAIG:</p> <p>23 Q. Did you have access to it?</p> <p>24 A. I did not.</p>

1 Q. If you had wanted to know  
2 something that would be found in the  
3 prescriber data, who would you have asked  
4 for it?

5 A. I would ask Nathalie.

6 Q. Do you see on the first page  
7 of the document, towards the bottom, in  
8 an e-mail from Michael Dorsey to you and  
9 others. In the middle of the e-mail  
10 Michael Dorsey notes, "We are spending a  
11 lot of resources for this one doctor. If  
12 Patrick below has already discussed with  
13 Tatia, I would have him ask her to  
14 fax/call in a request for the store to  
15 stock. Store will do so knowing that the  
16 patient is coming in there."

17 What -- what's being  
18 referred to as a lot of resources being  
19 spent for this one doctor, Dr. Schwartz?

20 MR. MAIER: Objection.  
21 Foundation.

22 MS. VENTURA: Objection.  
23 Foundation.

24 MR. BAILEY: Object to form.

1 THE WITNESS: I'm not sure.

2 BY MS. BAIG:

3 Q. Do you have any  
4 understanding of what was meant by that  
5 when he sent this e-mail?

6 MR. BAILEY: Foundation.

7 THE WITNESS: Judging from  
8 the trailing e-mails, people were  
9 talking about different ways we  
10 could do to get the product to the  
11 pharmacy. I think that's what  
12 Michael Dorsey was referring to.

13 BY MS. BAIG:

14 Q. In terms of spending a lot  
15 of resources for this one doctor?

16 A. Yes.

17 Q. And your response above is  
18 that "per Nathalie, this is a huge  
19 prescriber - largest prescriber in the  
20 country," correct?

21 A. Yes.

22 Q. And was that to suggest that  
23 it's okay -- it's understandable to spend  
24 more resources for this one prescriber

1 because he is such a huge prescriber?

2 MS. GERMANO: Objection.  
3 Form.

4 MS. VENTURA: Objection to  
5 form.

6 MR. MAIER: Object to form.

7 THE WITNESS: See, my team  
8 did not know, you know, any of  
9 these doctors. Typically we don't  
10 really get to the pharmacy level.  
11 So what Mike was suggesting is you  
12 just have the pharmacy call the  
13 wholesalers and we have product at  
14 the wholesalers and the pharmacy  
15 can just -- can just order from  
16 the wholesalers.

17 So what I'm saying, he's a  
18 large prescriber, so that's why  
19 we're helping to get the product  
20 to the pharmacy.

21 BY MS. BAIG:

22 Q. Did you ever do any research  
23 to see how many of your pills wound up  
24 with Dr. Schultz?

1 A. No, I did not.

2 Q. I meant Schwartz,  
3 Dr. Schwartz.

4 Same answer, correct?

5 A. Same answer, I did not  
6 research.

7 Q. Did you, in addition to the  
8 data tracking services we've already  
9 discussed, also use ValueTrak to provide  
10 data?

11 A. Can you repeat your question  
12 again?

13 Q. Did you use ValueTrak to  
14 provide data?

15 A. We used ValueTrak to analyze  
16 data.

17 Q. Okay. What type of analysis  
18 did ValueTrak provide?

19 A. So ValueTrak was a service  
20 that insert itself between the  
21 wholesalers and the manufacturers for the  
22 EDI data. So the EDI data particularly  
23 has the chargeback data, the inventory  
24 data which shows the quantities at the

<p style="text-align: right;">Page 209</p> <p>1 wholesalers, quantity of our product at</p> <p>2 the wholesalers, as well as the</p> <p>3 quantities that moved from the</p> <p>4 wholesalers to the pharmacies.</p> <p>5 (Document marked for</p> <p>6 identification as Exhibit</p> <p>7 Allergan-McCormick-13.)</p> <p>8 BY MS. BAIG:</p> <p>9 Q. Let's have this document</p> <p>10 marked as Exhibit 13.</p> <p>11 All right. This document is</p> <p>12 Bates stamped ALLERGAN_MDL_01213261</p> <p>13 through 3265.</p> <p>14 It starts as an e-mail from</p> <p>15 you to Rachelle Galant and Ara Aprahamian</p> <p>16 dated January 27, 2012.</p> <p>17 And it's titled Actavis -</p> <p>18 ValueTrak renewal (trading partners).</p> <p>19 And is Conrad Morgiewicz the</p> <p>20 contact that you had at ValueTrak for</p> <p>21 analyzing data?</p> <p>22 A. Conrad was the sales account</p> <p>23 manager for our account.</p> <p>24 Q. What is different about the</p>	<p style="text-align: right;">Page 210</p> <p>1 service that you're receiving from</p> <p>2 ValueTrak and the service that you're</p> <p>3 receiving from IMS?</p> <p>4 MS. VENTURA: Objection to</p> <p>5 form.</p> <p>6 THE WITNESS: Those two were</p> <p>7 very, very different services.</p> <p>8 So ValueTrak used Actavis</p> <p>9 data, so the data provided to</p> <p>10 Actavis from wholesalers and</p> <p>11 distributors through electronic</p> <p>12 transfer system.</p> <p>13 So it's actual data supplied</p> <p>14 by wholesalers of Actavis product</p> <p>15 only.</p> <p>16 IMS collects their own data</p> <p>17 for all the products in the market</p> <p>18 to the extent that data were</p> <p>19 available, and then project the</p> <p>20 data to include the entire market.</p> <p>21 So data was not 100 percent</p> <p>22 collected. And the data also</p> <p>23 includes more than just Actavis</p> <p>24 product.</p>
<p style="text-align: right;">Page 211</p> <p>1 BY MS. BAIG:</p> <p>2 Q. So Actavis would provide</p> <p>3 ValueTrak with chargeback data, correct?</p> <p>4 A. So, yeah, ValueTrak</p> <p>5 received -- so ValueTrak received the</p> <p>6 data that -- that the wholesalers</p> <p>7 provided to Actavis.</p> <p>8 Q. Okay. And what do they do</p> <p>9 with it?</p> <p>10 A. So the service of ValueTrak</p> <p>11 provided an easy user interface to allow</p> <p>12 the easier analysis and trending of those</p> <p>13 data. And the data were voluminous.</p> <p>14 Q. So when you created some of</p> <p>15 your trending reports that we looked at</p> <p>16 earlier, were you using IMS data or were</p> <p>17 you using ValueTrak analysis?</p> <p>18 MS. GERMANO: Objection to</p> <p>19 form.</p> <p>20 BY MS. BAIG:</p> <p>21 Q. Or both?</p> <p>22 A. It depends on which report</p> <p>23 you're talking about. So if it's</p> <p>24 specific labeled IMS, then it was from</p>	<p style="text-align: right;">Page 212</p> <p>1 IMS, like the market share report. But</p> <p>2 if it says chargeback data, it was never</p> <p>3 from IMS.</p> <p>4 Q. Okay. But what did you need</p> <p>5 ValueTrak for? Why couldn't you just use</p> <p>6 the chargeback data in your own system to</p> <p>7 create those reports? What was -- what</p> <p>8 added value was ValueTrak giving?</p> <p>9 MR. MAIER: Object to form.</p> <p>10 THE WITNESS: So the data</p> <p>11 coming back, coming from</p> <p>12 wholesalers were just voluminous.</p> <p>13 We didn't have a very good</p> <p>14 internal system to make those data</p> <p>15 to be user friendly.</p> <p>16 BY MS. BAIG:</p> <p>17 Q. To be used for what, simply</p> <p>18 for paying back the chargebacks?</p> <p>19 A. So the chargeback system</p> <p>20 actually were really a financial system</p> <p>21 to pay the chargeback.</p> <p>22 We had the system but not</p> <p>23 user friendly in the way so it's not easy</p> <p>24 to -- not user friendly to view the data,</p>



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1 to maybe analyze the data --

2 Q. Analyze for what purpose?

3 A. See, for product marketing,  
4 we want to know the customer, how the  
5 product was flowing. And so for general  
6 business purpose, that's how you manage  
7 the product.

8 Q. What was the Safe and Secure  
9 training session?

10 A. Safe and Secure was one of  
11 the modules that ValueTrak created. And  
12 we -- so we originally had the ValueTrak  
13 for, you know, for the -- for the  
14 inventory management, for the inventory  
15 movement and those data.

16 The Safe and Secure was  
17 added to help with the suspicious order  
18 monitoring at the pharmacy level.

19 So we just had a training or  
20 looking at what our modules could do and  
21 how we could use that for the purpose of  
22 suspicious order monitoring.

23 Q. And did you bring  
24 ValueTrak -- when did Actavis start

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1 working with ValueTrak? Do you know?

2 A. I don't remember  
3 specifically. But during my tenure  
4 there.

5 Q. Do you remember generally?  
6 Was it right at the beginning of your  
7 tenure or was it toward the end or  
8 somewhere in the middle?

9 A. I think somewhere in the  
10 middle. It wasn't 2004.

11 Q. Do you recall whether it was  
12 in or about 2011?

13 A. 2011, I certainly think we  
14 had that in 2011.

15 Q. ValueTrak?

16 A. Yeah.

17 Q. You said that you were using  
18 ValueTrak because -- for product  
19 marketing, you want to know the customer  
20 and how the product was flowing. What  
21 did you need ValueTrak for in terms of  
22 knowing the customer and how the product  
23 was flowing that you could not see from  
24 your own internal records?

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1 MR. KNAPP: Form.

2 THE WITNESS: I mean, this  
3 is actually a really large topic.  
4 If I were to give you example,  
5 with ValueTrak you could see --  
6 you can select the time period,  
7 the time period that you want  
8 that's in the system to see the  
9 current inventory level, for  
10 example, at, say, Amerisource.  
11 And it also shows how many units  
12 moved out of Amerisource to  
13 pharmacies, to their customers.

14 For example, if I see at a  
15 particular -- at Amerisource an  
16 inventory level of a particular  
17 product is really high, it's not  
18 moving, then we have reason to  
19 ask, if it's, say, more than their  
20 usual level of inventory, we would  
21 ask, "Why didn't this move?" We  
22 would explore the reason.

23 Another way to say is, "Hey,  
24 if this particular wholesaler

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1 already has so much product, we  
2 might not want to ship additional  
3 product to them," because when the  
4 product expires, the product can  
5 be returned to the manufacturers.  
6 So we don't want that to happen.  
7 When product was returned, you  
8 know, there was credit, there is  
9 financial burden to do that. So  
10 that's just one example.

11 Or if the particular a DC  
12 was very low on inventory, for  
13 some reason wholesaler could have  
14 just missed it, right. Maybe they  
15 didn't order in time. We  
16 potentially could alert them.

17 And also different trending.  
18 So we could see, hey, this -- you  
19 know, the sales at a particular  
20 wholesaler was going up or stable  
21 or down. It would just help us  
22 to, you know, to ask the questions  
23 and figure out what went on.

24 BY MS. BAIG:

<p style="text-align: right;">Page 217</p> <p>1 Q. And you can track -- you can</p> <p>2 track the sales not only through your</p> <p>3 customers, but also to their customers;</p> <p>4 is that right?</p> <p>5 MR. MAIER: Objection to</p> <p>6 form.</p> <p>7 MS. VENTURA: Objection to</p> <p>8 form.</p> <p>9 THE WITNESS: So we could</p> <p>10 see the quantities typically</p> <p>11 from -- that moved off from the</p> <p>12 wholesalers to their customers.</p> <p>13 BY MS. BAIG:</p> <p>14 Q. And you can see which</p> <p>15 customers they moved to, correct?</p> <p>16 MS. VENTURA: Objection to</p> <p>17 form.</p> <p>18 MR. MAIER: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: You could from</p> <p>21 the 867 data.</p> <p>22 BY MS. BAIG:</p> <p>23 Q. And where was the 867 data</p> <p>24 housed?</p>	<p style="text-align: right;">Page 218</p> <p>1 A. It's one of the data in --</p> <p>2 that ValueTrak actually has and it could</p> <p>3 analyze.</p> <p>4 Q. I see. What is 852 data?</p> <p>5 A. 852 is the inventory level</p> <p>6 at wholesalers.</p> <p>7 Q. Let's have this -- this</p> <p>8 document marked as Exhibit 16, please.</p> <p>9 MR. MAIER: I think it</p> <p>10 jumped from 13 to 16.</p> <p>11 MS. BAIG: Okay. Let's mark</p> <p>12 it 14.</p> <p>13 MS. GERMANO: This is 13?</p> <p>14 MS. VENTURA: No, this is 14</p> <p>15 that she's marking.</p> <p>16 (Document marked for</p> <p>17 identification as Exhibit</p> <p>18 Allergan-McCormick-14.)</p> <p>19 BY MS. BAIG:</p> <p>20 Q. This is a document</p> <p>21 Bates-stamped ALLERGAN_MDL_00226918</p> <p>22 through 6692. Starts as an e-mail from</p> <p>23 you from Mike Perfetto and Ara Aprahamian</p> <p>24 dated February 27, 2012. And if you turn</p>
<p style="text-align: right;">Page 219</p> <p>1 to the second-to-last page, you see</p> <p>2 "Amendment 3 to Hosted Services</p> <p>3 Agreement."</p> <p>4 Do you have an understanding</p> <p>5 of what this contract is?</p> <p>6 A. Yes.</p> <p>7 Q. What is it?</p> <p>8 A. It's agreement between</p> <p>9 ValueTrak to provide the service to</p> <p>10 Actavis.</p> <p>11 Q. And it references an initial</p> <p>12 agreement made as of February 26, 2009.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Does that refresh your</p> <p>16 recollection that Actavis and</p> <p>17 ValueTrak -- I see here it's referred to</p> <p>18 ValueCentric. Is that the same company,</p> <p>19 do you know?</p> <p>20 A. So ValueTrak is the tool.</p> <p>21 ValueCentric is the company.</p> <p>22 Q. Okay. Does this refresh</p> <p>23 your recollection that Actavis began</p> <p>24 working with ValueCentric in or about</p>	<p style="text-align: right;">Page 220</p> <p>1 February 26, 2009?</p> <p>2 MS. VENTURA: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: That's not</p> <p>5 correct because if you look at,</p> <p>6 this is amendment to -- the</p> <p>7 original amendment, so there is</p> <p>8 Amendment Number 1 effective 2011,</p> <p>9 February 10, 2011, and Amendment</p> <p>10 2, effective December 28th in</p> <p>11 2011.</p> <p>12 BY MS. BAIG:</p> <p>13 Q. So there's a -- in that --</p> <p>14 and if you look down to the "whereas"</p> <p>15 clause, it says, "Whereas, ValueCentric</p> <p>16 and Actavis have entered into that</p> <p>17 certain hosted services agreement made as</p> <p>18 of February 26, 2009."</p> <p>19 So I'm just wondering, and</p> <p>20 you tell me if I'm wrong, if the initial</p> <p>21 agreement was February 26, 2009, and the</p> <p>22 amendments are, as you state, Amendment 1</p> <p>23 on February 10, 2011, and Amendment 2 on</p> <p>24 December 28, 2011 -- is that your</p>

1 understanding?  
 2 MS. GERMANO: Objection.  
 3 Foundation.  
 4 THE WITNESS: The original  
 5 was 29 -- 2009. Then there were  
 6 two amendments. And this  
 7 attachment was the third amendment  
 8 to the original agreement.  
 9 BY MS. BAIG:  
 10 Q. Got it. So the first  
 11 agreement was February 26, 2009?  
 12 MS. VENTURA: Objection to  
 13 form.  
 14 BY MS. BAIG:  
 15 Q. Is that right?  
 16 A. Yes.  
 17 Q. And now that I understand  
 18 that that's a difference between  
 19 ValueCentric and ValueTrak and you said  
 20 ValueTrak is the tool. When you say  
 21 tool, what exactly do you mean by tool?  
 22 Is it a computer system or what is it?  
 23 A. It's this hosted service. I  
 24 don't know how to explain this. It's a

1 inventory management, the -- at the  
 2 wholesaler level. The movement in terms  
 3 of product movement from wholesalers. It  
 4 started out as that tool, then morphed  
 5 into additional capability that included  
 6 the Safe and Secure module that could be  
 7 used, really was used for suspicious  
 8 order monitoring.  
 9 Q. Okay. And the ValueTrak  
 10 tool, is that a computer system, an  
 11 automated system?  
 12 A. It's -- well, everything is  
 13 a computer system. It's -- how can I  
 14 explain? This -- this is a tool that was  
 15 used to -- to help us with the objectives  
 16 that we set out to do. It is on the  
 17 desktop. It is hosted by ValueCentric.  
 18 And accessed by -- accessed by the  
 19 approved users.  
 20 Q. I see. So you would have a  
 21 password and you could enter it -- you  
 22 could access it yourself from your  
 23 desktop at Actavis?  
 24 A. Yes.

1 hosted service. They have a name called  
 2 ValueTrak. The company is called  
 3 ValueCentric.  
 4 Q. And the service encompasses  
 5 the analysis of the data?  
 6 MS. VENTURA: Objection to  
 7 form.  
 8 THE WITNESS: The  
 9 ValueCentric, the service, has  
 10 different modules of service. And  
 11 it depends on what you -- what  
 12 your agreement was -- I mean  
 13 covered.  
 14 BY MS. BAIG:  
 15 Q. And when you used the term  
 16 "ValueTrak" earlier, are you talking  
 17 about all of those services or are you  
 18 talking about one specific part of it?  
 19 A. We just talk about the tool  
 20 and whatever the service that we agreed  
 21 to, you know, to cover.  
 22 Q. And what is the tool?  
 23 A. So the tool started out as  
 24 a, you know, inventory -- primarily

1 Q. Okay. So if you see at  
 2 the -- at the top of the first page, you  
 3 start, "Because we added many small  
 4 trading partners, there is addition setup  
 5 fee of 16,200, (2700 per partner setup)  
 6 and additional monthly fee of 1,620,  
 7 (\$270 per partner addition)."  
 8 So is -- is this -- is this  
 9 an example of how you were charged by  
 10 ValueCentric? Were you charged on a per  
 11 partner basis in terms of them providing  
 12 you with access to and visibility to the  
 13 customer data?  
 14 MR. MAIER: Objection, form.  
 15 THE WITNESS: This is just  
 16 the additional charge because of  
 17 additional trading partner. The  
 18 prior agreement, it was -- I don't  
 19 remember what the agreement was,  
 20 but it was a negotiated total.  
 21 BY MS. BAIG:  
 22 Q. Okay. And because you're  
 23 adding new partners, some of whom are  
 24 listed here, they are charging you more

1 for the service; is that right?

2 A. That's correct.

3 Q. Okay. And you state here,

4 "My question is: What's our SOM risk of

5 not having many of them? We don't need

6 the small guys for inventory management

7 perspective."

8 Did you ever receive an

9 answer as to what the SOM risk was of not

10 having many of them?

11 A. I don't remember.

12 Q. Do you recall whether all of

13 these were added?

14 A. I don't remember.

15 Q. Do you recall what factored

16 into the analysis as to whether to

17 include some trading partners and not

18 others in the ValueTrak --

19 MR. MAIER: Objection to

20 form and foundation.

21 BY MS. BAIG:

22 Q. -- portfolio?

23 A. We started out by really the

24 largest one, largest wholesalers and the

1 A. As part of daily running the

2 business, it is their job to look, you

3 know, to manage the product and if they

4 had the opioids, it would be part of the

5 daily activity in terms of, you know, the

6 suspicious order monitoring.

7 Q. So was it your understanding

8 that part of their daily activities was

9 to check ValueTrak for suspicious orders

10 on a daily basis?

11 MR. MAIER: Object to form.

12 THE WITNESS: So the -- so

13 as a part of the automated system

14 was there were flags set up. It

15 depends on the day. But on a

16 regular basis, it should happen.

17 And we have a fairly comprehensive

18 suspicious order monitoring. And

19 that has several layers of this

20 monitoring. It could happen at

21 multiple point in the process.

22 And so it's all part of the

23 regular business activity.

24 BY MS. BAIG:

1 distributors to include in the service.

2 Q. Okay. And then as time went

3 on, you added some?

4 A. Yeah.

5 Q. Do you know who was using

6 ValueTrak, if anyone, for purposes of

7 suspicious order monitoring?

8 A. So the product manager did a

9 lot of the work on a daily basis to

10 monitor these suspicious order

11 monitoring, to be part of the process.

12 Q. And did the product managers

13 have access to ValueTrak?

14 A. Certainly.

15 Q. And do you know whether they

16 were required or what their requirements

17 were in terms of checking ValueTrak or

18 any other data with respect to your

19 customers and your customers'

20 customers --

21 MR. MAIER: Object to form.

22 BY MS. BAIG:

23 Q. -- in implementing

24 suspicious order monitoring?

1 Q. When you started at

2 Alpharma, was there a very comprehensive

3 suspicious order monitoring system in

4 place?

5 MS. VENTURA: Objection to

6 form, foundation.

7 MS. GERMANO: Objection to

8 form.

9 THE WITNESS: I was not

10 aware of that, because I was not

11 managing product when I first

12 started.

13 BY MS. BAIG:

14 Q. Okay. Did you ever hear

15 about any sort of suspicious order

16 monitoring program in place at Alpharma

17 when you started?

18 A. I could not recall.

19 Q. Do you -- when was the first

20 time that you heard of a suspicious order

21 monitoring program, when was the first

22 time you were trained in suspicious order

23 monitoring?

24 MS. GERMANO: Objection to

1 form.  
 2 MR. MAIER: Object to form.  
 3 THE WITNESS: When we had as  
 4 part of the business activity or  
 5 when -- whenever we had Schedule  
 6 II drugs, there was, you know, a  
 7 lot of on-the-job training, and we  
 8 had annual training in terms of  
 9 the things that we need to be  
 10 compliant. And Schedule II,  
 11 whoever managed the Schedule II  
 12 would have understanding of what's  
 13 required to handle a Schedule II  
 14 drug.  
 15 BY MS. BAIG:  
 16 Q. Do you remember those -- any  
 17 of those trainings?  
 18 A. Not specifically.  
 19 Q. What was -- what's the  
 20 earliest training that you recall  
 21 actually being at on suspicious order  
 22 monitoring?  
 23 A. I don't recall specific  
 24 dates.

1 monitoring training do you recall being  
 2 at specifically, if any?  
 3 A. We had general training on  
 4 legal and compliance, and suspicious  
 5 order monitoring could be part of that.  
 6 Q. Do you recall it  
 7 specifically being part of that?  
 8 A. We had a regular training on  
 9 the legal and compliance. I don't recall  
 10 a specific suspicious order monitoring  
 11 training.  
 12 Q. You don't recall, is that  
 13 what you said?  
 14 A. I don't.  
 15 MR. MAIER: Do you mind if  
 16 we take a quick break?  
 17 MS. BAIG: Sure.  
 18 THE VIDEOGRAPHER: Going off  
 19 the record. The time is 2:39.  
 20 (Short break.)  
 21 THE VIDEOGRAPHER: We are  
 22 going back on record. Beginning  
 23 Media File Number 7. The time is  
 24 3:04.

1 Q. Do you remember generally a  
 2 general time frame?  
 3 A. I don't.  
 4 Q. You don't remember whether  
 5 it was 2005 or 2011?  
 6 MR. MAIER: Objection to  
 7 form.  
 8 THE WITNESS: I don't.  
 9 BY MS. BAIG:  
 10 Q. Can you narrow it down,  
 11 whether it's closer to 2005 or 2011 or  
 12 you just --  
 13 MS. GERMANO: Objection.  
 14 BY MS. BAIG:  
 15 Q. -- you have no memory of  
 16 suspicious order monitoring?  
 17 MS. GERMANO: Objection.  
 18 Form.  
 19 THE WITNESS: I really --  
 20 it's been so long, I really don't  
 21 have a good frame of reference in  
 22 terms of timeline.  
 23 BY MS. BAIG:  
 24 Q. Okay. What suspicious order

1 (Document marked for  
 2 identification as Exhibit  
 3 Allergan-McCormick-15.)  
 4 BY MS. BAIG:  
 5 Q. Let's have this document  
 6 marked as Exhibit 15.  
 7 This document is Bates  
 8 stamped Acquired\_Actavis\_00951998 through  
 9 2005. It starts with an e-mail from  
 10 Rachelle Galant to you dated March 9,  
 11 2012. The subject is Actavis 852/867  
 12 data.  
 13 Can you explain again the  
 14 difference between the 852 and the 867  
 15 data please?  
 16 A. 852 is the level of  
 17 inventory data at the wholesalers.  
 18 867 is the quantities that  
 19 moved from wholesalers to their  
 20 customers.  
 21 Q. And it starts off from  
 22 Rachelle saying, "Michael and Mike talked  
 23 about it and they thought a threshold of  
 24 50,000 CII units (fentanyl



1 methylphenidate, morphine, oxy, oxy IBu,  
2 and Prometh) annually warranted  
3 monitoring through ValueTrak. That would  
4 eliminate most of the additional trading  
5 partners that we were adding except for  
6 Value. What are your thoughts?"

7 And I'm wondering if this  
8 refreshes your recollection that --  
9 refreshes your recollection with respect  
10 to the analysis that went into  
11 determining which partners were being  
12 added to the ValueTrak system?

13 MR. MAIER: Objection to  
14 form.

15 THE WITNESS: I mean I'm  
16 reading the e-mail.

17 BY MS. BAIG:

18 Q. Okay. Do you remember when  
19 we were talking about trading partners  
20 being added, potentially added to the  
21 ValueTrak system? When you looked at  
22 Exhibit 14 there was a list of potential  
23 trading partners to be added?

24 A. Yes.

1 who to add to the ValueTrak system.

2 Q. And do you remember that  
3 there were potentially thresholds set up  
4 for warranting monitoring through  
5 ValueTrak as was stated in the first line  
6 here?

7 MS. VENTURA: Objection.

8 MR. MAIER: Objection to  
9 form.

10 THE WITNESS: I actually  
11 don't remember until I saw this  
12 e-mail.

13 BY MS. BAIG:

14 Q. Does this e-mail refresh  
15 your recollection that that happened, or  
16 do you know if it happened?

17 A. I don't know if it happened.

18 Q. It goes on to state, "That  
19 would eliminate most of the additional  
20 trading partners that we were adding,  
21 except for Value."

22 Do you see that?

23 A. I saw that.

24 Q. Is Value a trading partner?

1 Q. Okay. And it appears here  
2 that a certain threshold was set up for  
3 certain trading partners, that they would  
4 not be added to the ValueTrak system  
5 unless they had purchased a certain  
6 amount of -- of the drug; is that right?

7 MR. MAIER: Objection to  
8 form.

9 THE WITNESS: That's the  
10 content of Rachelle's e-mail.

11 BY MS. BAIG:

12 Q. Okay. And do you -- was it  
13 your understanding that that was actually  
14 implemented, that that was put into  
15 place, that there was a sort of threshold  
16 before adding -- adding certain trading  
17 partners to the ValueTrak system?

18 MR. MAIER: Objection to  
19 form.

20 THE WITNESS: I don't  
21 remember the specifics.

22 BY MS. BAIG:

23 Q. Do you remember generally?

24 A. I remember we were debating

1 A. It's Value Drug.

2 Q. Okay. And do you know  
3 whether most of these were actually  
4 eliminated or not?

5 A. I do not remember that.

6 Q. Okay. Can you tell me what  
7 IQVIA data is?

8 A. That's the new name for IMS.

9 Q. Oh. So I-Q-V-I-A is the  
10 same as IMS Data?

11 A. Yes.

12 Q. Did the data change when it  
13 changed names at all or --

14 A. No. IMS was acquired by  
15 someone and changed the corporate name.

16 Q. Okay. Well, that's good. I  
17 thought we had a whole other data  
18 analysis to go through.

19 A. IQVIA.

20 Q. Okay. Now going back to  
21 ValueTrak for a moment. My understanding  
22 from the testimony is that ValueTrak only  
23 provided you with visibility on your  
24 customers and your customers' customers,

1 but it did not provide you with  
 2 visibility on your competitors'  
 3 customers; is that correct?  
 4 A. That's correct.  
 5 Q. Okay. And if you wanted to  
 6 see if a pharmacy, or how much -- how  
 7 much oxycodone a pharmacy was dispensing,  
 8 what data would you look to see that?  
 9 A. We did not have visibility  
 10 to that.  
 11 Q. So you could not see how  
 12 much a pharmacy was dispensing other than  
 13 for your own data?  
 14 A. That's correct.  
 15 Let me correct this. We  
 16 could not see how much a pharmacy  
 17 could -- I mean were dispensing other  
 18 people's, and we could not see how much a  
 19 pharmacy was dispensing even if they  
 20 had -- the pharmacy had our product but  
 21 if they did not submit chargeback data.  
 22 So the pharmacy -- the  
 23 visibility only came from either  
 24 chargeback or 867 data.

1 Q. So you're saying you had  
 2 visibility into the highest prescribers,  
 3 but not the highest dispensers in terms  
 4 of pharmacies?  
 5 MS. GERMANO: Same  
 6 objection.  
 7 MR. MAIER: Objection to  
 8 form.  
 9 THE WITNESS: I did not have  
 10 visibility to the highest or to  
 11 any of the prescriber on a regular  
 12 basis.  
 13 BY MS. BAIG:  
 14 Q. But you saw from the prior  
 15 e-mail that Nathalie Leitch appeared to  
 16 have it, correct?  
 17 MS. GERMANO: Objection.  
 18 MR. MAIER: Objection to  
 19 form.  
 20 THE WITNESS: Nathalie,  
 21 being the head of the Kadian  
 22 marketing, would have it, but I  
 23 did not have it.  
 24 BY MS. BAIG:

1 Q. Did you have access to data  
 2 that showed you the highest dispensing  
 3 pharmacies?  
 4 MR. MAIER: Objection to  
 5 form.  
 6 THE WITNESS: I never -- I  
 7 did not.  
 8 BY MS. BAIG:  
 9 Q. Do you know if the company  
 10 did or not?  
 11 MS. VENTURA: Objection to  
 12 form.  
 13 THE WITNESS: I was not  
 14 aware.  
 15 BY MS. BAIG:  
 16 Q. And yet we saw the e-mail  
 17 before showing that you had visibility to  
 18 who was the highest prescribing  
 19 physician?  
 20 MR. MAIER: Objection to  
 21 form.  
 22 MS. VENTURA: Objection to  
 23 form.  
 24 BY MS. BAIG:

1 Q. Okay.  
 2 (Document marked for  
 3 identification as Exhibit  
 4 Allergan-McCormick-16.)  
 5 BY MS. BAIG:  
 6 Q. Let's have this document  
 7 marked as Exhibit 16.  
 8 Would Nathalie, in addition  
 9 to having the highest prescriber data,  
 10 would Nathalie Leitch also have had the  
 11 highest dispensing data?  
 12 MR. MAIER: Objection.  
 13 MS. VENTURA: Objection.  
 14 Foundation.  
 15 THE WITNESS: I do not know.  
 16 BY MS. BAIG:  
 17 Q. Okay. The next document is  
 18 not Bates stamped on the pages, but we  
 19 have a Bates stamp number that is Actavis  
 20 0712859 because it's an Excel  
 21 spreadsheet. I think you guys were  
 22 unable to Bates stamp it. It's labeled  
 23 at the top, "Top 254 target Kadian  
 24 prescribers, 12 months of prescription

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1 data, June 2011 through May 2012."  
 2 MS. VENTURA: We'll just  
 3 note for the record that the  
 4 confidentiality designation went  
 5 with the native file. So this  
 6 should also be confidential.  
 7 MS. BAIG: Okay.  
 8 BY MS. BAIG:  
 9 Q. And the heading goes on to  
 10 state, "Targets with more than 50 Kadian  
 11 -- sorry -- "Kadian scripts in the last  
 12 six months and more than five scripts'  
 13 growth in the last three over three  
 14 months."  
 15 All right. Have you seen --  
 16 have you seen this document before?  
 17 A. No, I have not.  
 18 Q. Have you seen a document  
 19 like it before?  
 20 MR. MAIER: Objection to  
 21 form.  
 22 THE WITNESS: I don't  
 23 remember.  
 24 BY MS. BAIG:

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1 says, Kadian prescriptions.  
 2 BY MS. BAIG:  
 3 Q. Right. Okay. And then it  
 4 gives the numbers of Kadian prescriptions  
 5 for various time periods.  
 6 Do you see that?  
 7 MS. VENTURA: Objection.  
 8 Foundation.  
 9 THE WITNESS: Yes.  
 10 BY MS. BAIG:  
 11 Q. Okay. And do you recall  
 12 talking about Dr. Michael Schwartz in  
 13 connection with an e-mail a little bit  
 14 earlier?  
 15 A. I remember that name from  
 16 that e-mail.  
 17 Q. And in the e-mail he was  
 18 noted as one of the highest prescribers,  
 19 if not the highest prescriber?  
 20 A. I remember that from the  
 21 e-mail.  
 22 Q. Okay. And do you see here  
 23 that there's Dr. Michael Schwartz listed  
 24 in Item 2, or in Row 2?

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1 Q. Okay. This document you can  
 2 see is a list of prescribers, if you look  
 3 at third column, do you see that?  
 4 MS. VENTURA: Objection.  
 5 Foundation.  
 6 THE WITNESS: Yes.  
 7 BY MS. BAIG:  
 8 Q. Okay. I mean is that how  
 9 you read it, it says prescriber at the  
 10 top of the column?  
 11 A. Yes. I would read that way.  
 12 Q. Okay. The next category is  
 13 Kadian prescriptions. Do you see that?  
 14 A. Yes.  
 15 Q. And it shows numbers of  
 16 prescriptions?  
 17 MS. VENTURA: Objection.  
 18 Foundation.  
 19 BY MS. BAIG:  
 20 Q. Is that how you read it,  
 21 does it show numbers of prescriptions?  
 22 MS. VENTURA: Same  
 23 objection.  
 24 THE WITNESS: That's what it

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1 A. Yes.  
 2 Q. And it provides numbers of  
 3 prescriptions for Michael Schwartz.  
 4 Do you see that?  
 5 MS. VENTURA: Objection.  
 6 Foundation.  
 7 THE WITNESS: Yes.  
 8 BY MS. BAIG:  
 9 Q. Okay. And do you see, if  
 10 you move further across the page it  
 11 appears that he is the second highest  
 12 prescriber for Kadian, with 16 -- with  
 13 1,663 prescriptions?  
 14 MS. VENTURA: Objection.  
 15 Foundation.  
 16 THE WITNESS: That's what  
 17 the data says.  
 18 BY MS. BAIG:  
 19 Q. And that would have been  
 20 1,663 prescriptions for the 12 months  
 21 from June 2011 through May 2012.  
 22 Do you see that?  
 23 MS. VENTURA: Objection.  
 24 Foundation.

1 THE WITNESS: That appears  
 2 to be what the data says.  
 3 BY MS. BAIG:  
 4 Q. Okay. And he appears to be  
 5 the second highest prescriber for  
 6 morphine sulfate ER as well.  
 7 Do you see that?  
 8 MS. VENTURA: Objection.  
 9 Foundation.  
 10 THE WITNESS: I don't see  
 11 that because there are numbers  
 12 higher than that.  
 13 BY MS. BAIG:  
 14 Q. So the number I see is  
 15 2,608. Is that the number that you're  
 16 looking at?  
 17 A. I'm looking at the 2608 yes.  
 18 Q. Yes, okay. And I see one  
 19 higher, which is 4,281. A-ha. I do see  
 20 another higher. In Seattle, are you  
 21 looking at that one?  
 22 A. Yes. The line below that it  
 23 was 3,809.  
 24 Q. Yes, the Seattle doctor.

1 form.  
 2 MR. MAIER: Objection.  
 3 THE WITNESS: So this is  
 4 part of the McKesson Connect.  
 5 BY MS. BAIG:  
 6 Q. So did Actavis use direct  
 7 ads to market generic opioids, whether it  
 8 be through Actavis directly or through a  
 9 partner that it hired to do so?  
 10 MS. VENTURA: Objection to  
 11 form.  
 12 THE WITNESS: For the  
 13 oxymorphone marketing program, we  
 14 worked with McKesson in this  
 15 context, just for the oxymorphone  
 16 product.  
 17 BY MS. BAIG:  
 18 Q. Okay. For direct  
 19 advertising, correct?  
 20 A. So I want to clarify this  
 21 direct advertising is just the name.  
 22 It's not direct advertising to consumers  
 23 or patients. It's the name of their  
 24 page, called DirectRx.

1 Okay. But in any event, you see that for  
 2 Dr. Michael Schwartz, he's identified as  
 3 having 2,608 prescriptions of morphine  
 4 sulfate ER for that 12-month period,  
 5 correct?  
 6 MS. VENTURA: Objection.  
 7 Foundation.  
 8 THE WITNESS: That's what  
 9 the data shows.  
 10 BY MS. BAIG:  
 11 Q. Okay. If you had wanted to  
 12 see prescriber data like this, who at  
 13 Actavis would you have asked for this  
 14 data?  
 15 A. I would have asked Nathalie.  
 16 (Document marked for  
 17 identification as Exhibit  
 18 Allergan-McCormick-17.)  
 19 BY MS. BAIG:  
 20 Q. I'll have this document  
 21 marked as Exhibit 17.  
 22 Now, did you use direct ads  
 23 to market generic opioids?  
 24 MS. VENTURA: Objection to

1 Q. Okay.  
 2 A. So it's part --  
 3 Q. This is what's referenced  
 4 here, "DirectRx advertising example,"  
 5 correct?  
 6 A. Yeah. That's if you were --  
 7 if that's what you are talking about.  
 8 Q. Yeah. I'm looking at the  
 9 language on the document that says,  
 10 "DirectRx advertising example."  
 11 Do you see that?  
 12 A. Yes, I saw that.  
 13 Q. Okay. And they seem to be  
 14 suggesting to you through John Hansen in  
 15 this e-mail that it's a screen shot of an  
 16 example of an ad that can be recreated  
 17 for oxymorphone; is that right?  
 18 MS. GERMANO: Objection.  
 19 Form.  
 20 THE WITNESS: That's just  
 21 example from John.  
 22 BY MS. BAIG:  
 23 Q. Yeah. And he suggests, "We  
 24 will create a similar one for

1 oxymorphone," correct?

2 A. That's what he said.

3 Q. Okay. And do you know  
4 whether such a direct ad was created for  
5 oxymorphone?

6 MS. VENTURA: Objection to  
7 form.

8 THE WITNESS: I don't  
9 remember.

10 BY MS. BAIG:

11 Q. But you -- go ahead.

12 A. But I think we executed the  
13 program.

14 Q. Okay. And if you turn to  
15 the third page of the document, do you  
16 see there's an e-mail from you to John  
17 Hansen at McKesson and others, starting,  
18 "John and Wendy"?

19 A. Okay.

20 Q. And do you see you go on to  
21 say, "Attached are some background  
22 information on the product as well as our  
23 ad, which is delivered to prescribing  
24 physicians and run in August issue of

1 Practical Pain Management and Pharmacy  
2 Times."

3 Do you see that?

4 A. Yes, I saw that.

5 Q. Okay. And it goes on to  
6 state, "Similar message/graphics is also  
7 e-mailed to all pharmacies around the  
8 country about three weeks ago and will be  
9 sent again the day after Labor Day."

10 So are these actions that  
11 were taken directly by your department?

12 A. The message to the  
13 pharmacies we used, we used a service to  
14 provide that message to the pharmacies.

15 Q. Which service?

16 A. I don't remember exactly.  
17 But there were lots of marketing services  
18 that could do that.

19 Q. Do you remember some of the  
20 marketing services that you used other  
21 than R&J that we've discussed already?

22 A. This will be, for example, a  
23 PDQ, for example. They're a marketing  
24 service. It could be the PharmAlert.

1 That's an e-mail service. That could be  
2 providing such service.

3 Q. PharmAlert, P-H-A-R-M?

4 A. P-H-A-R-M. PharmAlert.

5 Q. And what does PDQ stand for?

6 A. I don't know. It's all  
7 capital, PDQ. That's the name of a  
8 service provider.

9 Q. Okay. And were there any  
10 other marketing services that you were  
11 using to promote generic opioids?

12 MS. VENTURA: Objection to  
13 form.

14 THE WITNESS: We use --  
15 typically these were the two  
16 common ones we used to provide  
17 service -- messages to the  
18 pharmacies.

19 BY MS. BAIG:

20 Q. And did you -- did you pay  
21 them to do that?

22 A. For their marketing  
23 services.

24 Q. Sure. So you had contracts

1 with them?

2 A. We have -- typically it's  
3 just by project. If this is a project,  
4 there will be a quote. And then they  
5 would do the work.

6 Q. Okay. And would you have  
7 had a contract?

8 A. So it's not a contract.  
9 It's just a quote for the work and then  
10 invoice.

11 Q. Okay.

12 A. Yeah.

13 Q. And were they the ones that  
14 would run the ads in -- in the issues of  
15 Practical Pain Management and Pharmacy  
16 Times?

17 A. No. The -- so our agency  
18 would create the piece. And approved by  
19 our internal compliance and legal and  
20 regulatory. Then our agency will send to  
21 the Practical Pain Management and  
22 Pharmacy Times, these publications,  
23 for -- you know, for the particular issue  
24 we decided to run.



1 Q. And when you say our agency,  
2 are you referring to your advertisement  
3 agency?

4 A. Yes. Advertising agency.

5 Q. So that would be like R&J?

6 A. Yes. Or their equivalent,  
7 successor.

8 Q. Okay. But you're not  
9 talking about PDQ and PharmAlert?

10 A. No.

11 Q. Okay. And are these the --  
12 the talking points that you suggested  
13 for -- for what actually -- for  
14 conversations with pharmacists?

15 Do you see the suggested  
16 talking points here?

17 MR. BAILEY: Objection to  
18 form.

19 THE WITNESS: Those are the  
20 suggested talking points for

21 McKesson to use to the pharmacist.

22 BY MS. BAIG:

23 Q. Okay.

24 MS. VENTURA: If we are

1 going to a new document, do you  
2 mind going off the record just for  
3 a moment?

4 THE VIDEOGRAPHER: Going off  
5 the record. The time is 3:29.

6 (Brief pause.)

7 THE VIDEOGRAPHER: Going  
8 back on the record. Beginning of  
9 Media File 8. The time is 3:30.

10 (Document marked for  
11 identification as Exhibit

12 Allergan-McCormick-18.)

13 BY MS. BAIG:

14 Q. I'll have this document  
15 marked as Exhibit 18. It's Bates stamped  
16 ALLERGAN\_MDL\_02460224 through 226.

17 And it's an e-mail sent by  
18 you to Steve Cohen dated January 24,  
19 2012, titled oxymorphone prescription  
20 trends. Do you see that?

21 A. Yes.

22 Q. And who is Steve Cohen?

23 A. He is a person on the sales  
24 team.

1 Q. Okay. And here there is a  
2 reference to targeting an e-mail to all  
3 90,000 pharmacists this Friday. Do you  
4 see that?

5 A. Yes, I saw that.

6 Q. And would this be the type  
7 of e-mail -- would this be the type of  
8 e-mail blast that we discussed earlier  
9 that you would either have your  
10 advertising agency do or you would do it  
11 directly, or did this go through your  
12 advertising agency?

13 MR. MAIER: Objection to  
14 form.

15 THE WITNESS: So the agency  
16 created the material and it was  
17 executed, so delivered, by one of  
18 the marketing service providers to  
19 the pharmacies, to the  
20 pharmacists.

21 BY MS. BAIG:

22 Q. PDQ or PharmAlert?

23 A. Yes.

24 Q. Okay. And do you see

1 towards the end of the document,  
2 there's -- well, there's an e-mail  
3 from -- from David Meyers to you and  
4 others, providing you with an update  
5 regarding the trends on oxymorphone  
6 prescription data, correct?

7 A. Yes, I saw that.

8 Q. Trends through December of  
9 2011, correct?

10 A. Yes.

11 Q. And he notes that  
12 "dispensing data on oxymorphone  
13 7.5 milligrams and 15 milligrams  
14 continues to grow month after month,"  
15 correct?

16 A. That's correct.

17 Q. And he goes on to state that  
18 "when comparing July, the month we  
19 launched, versus December data, we see an  
20 increase of 110 percent on the  
21 15 milligram and 147 percent on the  
22 7.5 milligram."

23 Do you see that?

24 A. Yes.

1 Q. Did you have a general  
2 understanding that sales were increasing  
3 in a significant amount at that time?

4 MR. MAIER: Objection to  
5 form.

6 THE WITNESS: It should be,  
7 because July was launching. When  
8 you launch, this is four-month,  
9 six-month after launch, it should  
10 be increasing.

11 BY MS. BAIG:

12 Q. Okay. And you see a little  
13 bit further down, it states that "the  
14 marketing group is once again utilizing  
15 the Kadian sales force to promote  
16 oxymorphone to pain doctors, as well as  
17 running both direct mail and e-mail  
18 promotional programs in January and  
19 February."

20 Do you see that?

21 A. Yes.

22 Q. And he states, "Our goal is  
23 to continue the growth trend through  
24 2012."

1 Do you see that?

2 A. Yes.

3 Q. And was it your  
4 understanding that the marketing group  
5 was utilizing the Kadian sales force to  
6 promote oxymorphone to pain doctors?

7 MR. MAIER: Objection to  
8 form.

9 THE WITNESS: Yes. I was  
10 aware to promote. I think we want  
11 to clarify that promote, really  
12 just to make it aware of the  
13 availability of this product, as  
14 those marketing material we had  
15 reviewed earlier.

16 BY MS. BAIG:

17 Q. And that -- and you are also  
18 running both direct mail and e-mail  
19 promotional programs, correct?

20 A. Yes. So all of these  
21 programs were just awareness program. It  
22 wasn't promoting the product on any of  
23 the benefits or anything.

24 Q. Did you have an

1 understanding of the addictive qualities  
2 of the product at the time?

3 MR. MAIER: Objection to  
4 form.

5 THE WITNESS: So product  
6 being Schedule II has addictive  
7 potential.

8 BY MS. BAIG:

9 Q. And do you know whether the  
10 Kadian sales force was promoting the  
11 awareness of the addictive qualities of  
12 oxymorphone to pain doctors?

13 MR. MAIER: Object to form  
14 and foundation.

15 MS. VENTURA: Join in the  
16 objection.

17 THE WITNESS: What we asked  
18 Kadian sales force was just  
19 awareness campaign to the doctors,  
20 so they are aware, so they -- the  
21 doctors were aware of the ability  
22 of the generic because the --  
23 because Opana ER was discontinued.

24 BY MS. BAIG:

1 Q. Do you remember -- do you  
2 know why Opana ER was discontinued?

3 A. I do not remember why it was  
4 discontinued. At that time, what we knew  
5 is was not because of safety reason.

6 Q. You never heard that Opana  
7 ER was discontinued because of safety  
8 reasons?

9 A. It was not -- it was not  
10 because of safety reasons.

11 Q. You know that?

12 A. That's how we understood at  
13 the time.

14 Q. Have you come to a different  
15 understanding since then?

16 MR. MAIER: Objection to  
17 form.

18 MS. VENTURA: Objection to  
19 form.

20 THE WITNESS: I have not --  
21 I have not worked with this  
22 product since I left Actavis.

23 BY MS. BAIG:

24 Q. Okay. But you still work

1 with -- with opioid products, correct?  
 2 MS. GERMANO: Objection,  
 3 form.  
 4 THE WITNESS: I do now.  
 5 BY MS. BAIG:  
 6 Q. Did -- were you involved at  
 7 all in tracking the return on investment  
 8 for your marketing --  
 9 MR. MAIER: Objection to  
 10 form.  
 11 BY MS. BAIG:  
 12 Q. -- of generic products?  
 13 A. So marketing -- generic  
 14 marketing had -- so first of all, if you  
 15 were talking about the promotional  
 16 expense or activities, it was very small  
 17 to begin with. It was -- we didn't  
 18 track -- we did not track by product, for  
 19 example. We did not track about return  
 20 on investment in general.  
 21 Q. So you did not -- so Actavis  
 22 did not track return on investment for  
 23 its marketing activities?  
 24 MR. MAIER: Objection to

1 know who was tracking return on  
 2 investment, you had a pretty senior level  
 3 position there. Who would you have  
 4 asked?  
 5 MR. MAIER: Objection to  
 6 form.  
 7 THE WITNESS: I could have  
 8 asked Nathalie, for example, if I  
 9 knew she -- of course I knew she  
 10 was the head of Kadian marketing.  
 11 I could -- you know, I could  
 12 ask Doug Boothe, the CEO.  
 13 BY MS. BAIG:  
 14 Q. In addition to the two  
 15 magazines that we looked at with respect  
 16 to the ads, were there any other  
 17 magazines that were targeted for  
 18 marketing purposes?  
 19 MR. MAIER: Object to form.  
 20 THE WITNESS: I don't  
 21 remember the marketing -- the  
 22 journals for this product  
 23 specifically. We did work with a  
 24 number of other publications

1 form.  
 2 MS. VENTURA: Objection to  
 3 form.  
 4 THE WITNESS: We did not  
 5 track the return on investment for  
 6 generic product marketing expense.  
 7 BY MS. BAIG:  
 8 Q. I see. So -- but certainly  
 9 Actavis tracked return on investment for  
 10 marketing generally, correct?  
 11 MS. VENTURA: Objection to  
 12 form, foundation.  
 13 MR. MAIER: Objection to  
 14 form.  
 15 THE WITNESS: I do not know  
 16 that.  
 17 BY MS. BAIG:  
 18 Q. If you wanted to know, who  
 19 would you ask?  
 20 A. It never occurred to me to  
 21 ask.  
 22 Q. Sure. But you worked at  
 23 Actavis and Alpharma for a long time, You  
 24 know the people there. If you wanted to

1 during the course of my work  
 2 there.  
 3 BY MS. BAIG:  
 4 Q. Which publications do you  
 5 recall working with?  
 6 A. Typically there was Drug  
 7 Store News. So Drug Store News. I don't  
 8 recall all the names that we were working  
 9 with.  
 10 Q. Do you recall any other  
 11 names?  
 12 A. Let me think through that.  
 13 Oh, Pharmacy Times.  
 14 I mean, if you do have a  
 15 list, it's probably a lot easier to think  
 16 back.  
 17 (Document marked for  
 18 identification as Exhibit  
 19 McCormick-19.)  
 20 BY MS. BAIG:  
 21 Q. Okay. Let's have this  
 22 document marked as Exhibit 19. This  
 23 document is Bates-stamped ACTAVIS\_0350871  
 24 through 907. It starts from an e-mail

1 from you to John Hansen, dated August 26,  
2 2011. Subject, "Follow-up discussion  
3 regarding" -- or, "Re Actavis oxymorphone  
4 campaign."

5 Do you see that?

6 A. Yes.

7 Q. And it says, as an  
8 attachment, is the oxymorphone sell sheet  
9 and oxymorphone summary for McKesson.

10 Do you see that?

11 A. Okay.

12 Q. And it states, "Attached are  
13 some background information on the  
14 product as well as our ad which is  
15 delivered to prescribing physicians and  
16 run in August issue of Practical Pain  
17 Management and Pharmacy Times."

18 So these are two of the  
19 medical journals that you would post ads  
20 in; is that right?

21 MR. MAIER: Objection to  
22 form.

23 THE WITNESS: Yes, those  
24 were the two we used.

1 and there's a number.

2 Do you see that?

3 A. Yes.

4 Q. And if they called the  
5 Actavis representative, who would they  
6 talk to?

7 A. It would be someone from the  
8 customer service department.

9 Q. Okay. And were there  
10 scripts created for the people in  
11 customer service who were talking  
12 directly with customers?

13 MR. MAIER: Objection to  
14 form.

15 MS. VENTURA: Objection to  
16 form.

17 THE WITNESS: So these  
18 are -- the words, "Contact your  
19 Actavis representative or  
20 wholesalers," I think those were  
21 the material that would be for the  
22 pharmacy. So the customer service  
23 would be pharmacists too. The  
24 pharmacists would call the

1 BY MS. BAIG:

2 Q. Okay. And it goes on to  
3 state that, "The similar message/graphics  
4 is also e-mailed to all pharmacies around  
5 the country about three weeks ago and  
6 will be sent again the day after Labor  
7 Day." Do you see that?

8 A. Yes.

9 Q. And here are the talking  
10 points. It looks in part like this is a  
11 duplicate of an e-mail that we saw  
12 earlier.

13 A. It looks that way.

14 Q. But this one has  
15 attachments. And so if you look to the  
16 next page. Is this the sell sheet, the  
17 first page?

18 A. The first page, yeah, that  
19 looks like the sell sheet.

20 Q. And on the next page where  
21 it says, "Now available from Actavis,"  
22 and down at the bottom it says, "To learn  
23 more, contact your Actavis representative  
24 or wholesaler or call customer service,"

1 customer service typically.

2 BY MS. BAIG:

3 Q. Okay. And were there  
4 scripts that the people answering the  
5 phone would use to talk with the callers?

6 MR. MAIER: Objection to  
7 form.

8 MS. VENTURA: Objection to  
9 form, foundation.

10 THE WITNESS: I don't know.

11 BY MS. BAIG:

12 Q. You don't know. You never  
13 saw the scripts, if there were any?

14 A. I've never -- I never asked  
15 if they had scripts.

16 Q. Okay. Well, were you  
17 involved in training of any of those  
18 people that would take calls?

19 A. No. I was not involved.  
20 This is the customer service that  
21 answered all of the calls.

22 Q. Okay. Who would have  
23 trained those folks?

24 A. So Nancy Baran was the head

1 of customer service.  
 2 Q. Okay. Then if you go to the  
 3 second-to-last page, there's another  
 4 picture of the sell sheet. And it says,  
 5 "Sell sheet front and back."  
 6 Is that your understanding  
 7 of the sell sheet that we've been  
 8 discussing for oxymorphone hydrochloride  
 9 extended release?  
 10 A. Yeah, that's the same we've  
 11 seen on the front.  
 12 Q. Okay.  
 13 A. Yeah.  
 14 (Document marked for  
 15 identification as Exhibit  
 16 McCormick-20.)  
 17 BY MS. BAIG:  
 18 Q. We'll have this document  
 19 marked as Exhibit 20. Here you go.  
 20 This document starts as an  
 21 e-mail from you to Brenda Vesey. It's  
 22 Bates-stamped ACTAVIS\_346651 through 655.  
 23 Who's Brenda Vesey?  
 24 A. She was the head of HR.

1 Q. You mean you state, "We  
 2 occasionally target"? Is that what  
 3 you're saying? The word "occasionally"  
 4 is in there?  
 5 A. Yeah.  
 6 Q. Yeah. And you go on to  
 7 state that, "Practical Pain Management  
 8 falls into this category."  
 9 A. Yes.  
 10 Q. So was it your intent to  
 11 target pain management physicians?  
 12 MR. MAIER: Objection to  
 13 form.  
 14 MS. VENTURA: Objection to  
 15 form. Foundation.  
 16 THE WITNESS: So what it's  
 17 indication, oxymorphone was for  
 18 pain management and the Practical  
 19 Pain Management was one of the  
 20 journals that -- that were read by  
 21 physician.  
 22 BY MS. BAIG:  
 23 Q. And you go on to state,  
 24 "Every year we aim to develop new

1 Q. And do you see the subject  
 2 is marketing plan and media plan?  
 3 A. Yes.  
 4 Q. And this was a marketing and  
 5 media plan for what?  
 6 A. So I think it's this -- this  
 7 media plan for the year, for generic.  
 8 Q. For all of the generic  
 9 drugs?  
 10 A. So for the generic division.  
 11 Q. And what was the purpose,  
 12 why did you create this and send this to  
 13 Brenda Vesey?  
 14 A. So the media plan was part  
 15 of the normal business operation. We  
 16 have this plan to really plan out the  
 17 whole year for our media activities.  
 18 Q. And you state in here, "We  
 19 occasionally target prescribing  
 20 physicians as needed, for example  
 21 oxymorphone to promote our products,"  
 22 correct?  
 23 A. I stated that,  
 24 "occasionally."

1 corporate ad to fresh the image. This  
 2 year we planned for two new ones. One is  
 3 being used in ad," and then you have,  
 4 "(Green planet, zero carbon, we call tree  
 5 ad)."  
 6 Is that ad actually -- it's  
 7 not attached, right?  
 8 A. Not here. At least I didn't  
 9 see it. Let me see.  
 10 Q. What was the green planet  
 11 ad? That was for oxymorphone?  
 12 A. That was just for corporate  
 13 Actavis, the corporate brand, not  
 14 product-specific ad.  
 15 Q. I see. And then you go on  
 16 to state, "We also did more  
 17 product-specific promotions this year, as  
 18 we discussed earlier. Fentanyl,  
 19 Zolpidem, and oxymorphone are published."  
 20 Correct?  
 21 A. Yes.  
 22 Q. And those were published  
 23 where?  
 24 A. I don't remember exactly



1 where. But oxymorphone we already talked  
 2 about in the two journals.  
 3 Q. Okay. You go on to say, "We  
 4 did extensive promotion and media  
 5 campaign for oxymorphone." Correct?  
 6 A. Yes.  
 7 Q. And on the next page,  
 8 there's a list of products, and then it  
 9 states a column for ad and a column for  
 10 sell sheet.  
 11 Do you see that?  
 12 A. Yes. I saw that.  
 13 Q. Okay. And what is this?  
 14 This is just to let them know that you --  
 15 that you have certain ads and sell sheets  
 16 prepared already?  
 17 A. These are the new product to  
 18 be launched, and then we're working on  
 19 either the sell sheets or the ad.  
 20 Q. I see. And these are the  
 21 estimated time frame for the launches?  
 22 A. I don't know if it's an  
 23 estimated or it happened.  
 24 Q. Okay. And on the next page,

1 you see that Actavis 2011 media plan?  
 2 A. Yes.  
 3 Q. And did you create this  
 4 media plan?  
 5 A. No, I did not.  
 6 Q. Who created it?  
 7 A. Our agency working with --  
 8 working with David Meyers, to create this  
 9 plan.  
 10 Q. The advertising agency, J&R?  
 11 A. The advertising agency,  
 12 either R&J or its successor.  
 13 Q. Okay. And what was the  
 14 purpose of creating this media plan?  
 15 A. Just most of the work we do,  
 16 we created a plan throughout the year so  
 17 we know what our plans were and what the  
 18 budget would be and, you know, that's a  
 19 plan.  
 20 Q. And so the far left column  
 21 is entitled "Publications," correct?  
 22 A. Yes. That's the  
 23 publication.  
 24 Q. And were those the

1 publications where you were placing ads  
 2 to promote generic opioids?  
 3 MR. MAIER: Objection to  
 4 form.  
 5 THE WITNESS: Those were the  
 6 journals that we worked with to  
 7 place our ads. It could be  
 8 product specific, but more  
 9 frequently it was corporate ads.  
 10 BY MS. BAIG:  
 11 Q. And those publications  
 12 included American Health and Drug  
 13 Benefits, Chain Drug Review, Chain Drug  
 14 Store Daily - NACDS, Drug Store  
 15 Management, Drug Store News, Drug Topics,  
 16 JAMDC Membership Directory, MPR,  
 17 Non-Foods Management, Pharmacy Purchasing  
 18 and Products, Pharmacy Times, Pharmacy  
 19 Today, Practical Pain Management, U.S.  
 20 Pharmacist on this list, correct?  
 21 A. Mm-hmm. I can see on that.  
 22 Q. What does MPR stand for?  
 23 A. I don't know. That's just  
 24 their name.

1 Q. Okay. And what's identified  
 2 in these -- in, say, these red boxes, do  
 3 you know?  
 4 A. That's the planned insertion  
 5 date, and then the ad, the content.  
 6 Q. So if it says mortar ad,  
 7 what does that mean?  
 8 A. That's a corporate ad. It's  
 9 referring to an image that has mortar in  
 10 it.  
 11 Q. Okay. What was the thinking  
 12 behind having mortar as a graphic for a  
 13 corporate ad?  
 14 MR. MAIER: Objection to  
 15 form and foundation.  
 16 THE WITNESS: There was a  
 17 lot of -- I mean there were a lot  
 18 of reasons why we created the ads,  
 19 along -- along with the associated  
 20 images.  
 21 BY MS. BAIG:  
 22 Q. Do you remember what the  
 23 reason was for the mortar ad?  
 24 A. Well, it's normally related

1 to pharmacies.  
 2 Q. Mortar?  
 3 A. Mortar was -- yes. It was  
 4 the old-fashioned pharmacy.  
 5 Q. I see. And then you have,  
 6 say, four -- six rows from -- columns  
 7 from the right, there's a reference to an  
 8 oxymorphone ad. Do you see that?  
 9 A. It's hard to see.  
 10 Q. I know.  
 11 There are a couple  
 12 references to oxymorphone ads, do you see  
 13 those? Six columns from the right  
 14 towards the bottom.  
 15 A. Oh I see. You have good  
 16 eyesight.  
 17 Yes, I saw that.  
 18 Q. So those would be, for  
 19 example, oxymorphone ads being placed  
 20 into Pharmacy Times and Practical Pain  
 21 Management?  
 22 A. Yes.  
 23 Q. Okay. And the next page has  
 24 2011 budget launches. Would this have

1 also been created by your advertising  
 2 agency?  
 3 A. No. This was created by the  
 4 marketing group.  
 5 Q. By your marketing group?  
 6 A. Yes.  
 7 Q. Okay. And what was the  
 8 purpose of this?  
 9 A. This was for us to track the  
 10 new product launches for a particular  
 11 year.  
 12 Q. And it provides market share  
 13 targets; is that right?  
 14 A. That's the target assumption  
 15 in the 2011 budget.  
 16 Q. It's the market share target  
 17 in the 2011 budget?  
 18 A. Yes.  
 19 MS. VENTURA: Can you just  
 20 reference the specific -- there's  
 21 two charts that have the same  
 22 title. One has got some green  
 23 rows, the other has grey rows.  
 24 Can we just make sure that we are

1 all talking about the same one?  
 2 MS. BAIG: I think those  
 3 have the same heading on the boxed  
 4 column.  
 5 MS. VENTURA: And they have  
 6 the same Bates number. It looks  
 7 like there's a color difference  
 8 that we can use to reference which  
 9 one we are talking about.  
 10 BY MS. BAIG:  
 11 Q. What is Sagent, S-A-G-E-N-T?  
 12 I see it on the -- the first of those two  
 13 pages?  
 14 A. Sagent. It's a company.  
 15 Q. What company is it, why is  
 16 it referenced here? Is it an Allergan  
 17 company?  
 18 A. No, it's not.  
 19 Q. Okay. So why were you  
 20 creating budget launches for Sagent?  
 21 MR. MAIER: Objection to  
 22 form.  
 23 THE WITNESS: So Sagent  
 24 primarily had injectable product,

1 and Actavis did not have  
 2 injectable -- injectable product  
 3 prior to very recent years. So I  
 4 think we had marketing agreement  
 5 to have Sagent sell Actavis  
 6 product. And those were the  
 7 injectable product.  
 8 BY MS. BAIG:  
 9 Q. Were any of those products  
 10 opioids?  
 11 A. No. Both the -- the listed  
 12 there, gemcitabine and paclitaxel are  
 13 both oncology products.  
 14 Q. Do you have a page in your  
 15 exhibit that looks like this?  
 16 A. I think so.  
 17 Q. And what is this -- this  
 18 page? Just for the record it still says  
 19 Actavis 2011 media plan. December 2019.  
 20 That must be the produced date or  
 21 something.  
 22 What is this document?  
 23 MR. KNAPP: Probably the  
 24 printed date.

1 THE WITNESS: So this is a  
2 part of the media plan. And those  
3 were the potential, those are the  
4 journals involving pain  
5 management. Those were just the  
6 options.  
7 BY MS. BAIG:  
8 Q. Okay. So you have, for  
9 example, the Practical Pain Management  
10 Journal, right?  
11 A. Mm-hmm.  
12 Q. And the target audience  
13 there is clinicians and pharmacists?  
14 A. Yes. That's what it says.  
15 Q. Okay. And this was a  
16 journal that you intended to place an ad  
17 for a generic opioid; is that right?  
18 MS. GERMANO: Objection.  
19 Foundation.  
20 THE WITNESS: This is one we  
21 intended to place ad for,  
22 oxymorphone availability awareness  
23 ad.  
24 BY MS. BAIG:

1 Q. Okay. And pain -- Pain  
2 Medicine is another journal that you were  
3 intending to place an ad in; is that  
4 right?  
5 MS. GERMANO: Objection to  
6 form.  
7 THE WITNESS: No. These  
8 were the agency, the ad agency's  
9 work to list the potential  
10 journals we could place our ad in.  
11 BY MS. BAIG:  
12 Q. I see. And they were  
13 providing you with the costs associated  
14 with that as well; is that right?  
15 A. Sure.  
16 Q. Okay. And they include Pain  
17 Medicine, Pain Medicine News, the Journal  
18 of Pain, the Journal of Pain Symptom and  
19 Pain Management, and Anesthesiology News,  
20 correct?  
21 A. Yes.  
22 (Document marked for  
23 identification as Exhibit  
24 Allergan-McCormick-21.)

1 BY MS. BAIG:  
2 Q. Let's have this document  
3 marked as Exhibit 21.  
4 It's Bates stamped Actavis  
5 0622787 through 89. It starts as an  
6 e-mail from you to David Meyers dated  
7 September 2, 2011. Subject is revised  
8 marketing plan. Attachment is marketing  
9 plan for Actavis.  
10 Do you see that?  
11 A. Yes.  
12 Q. And again, it references an  
13 e-mail blast to pharmacists in the first  
14 line. Do you see that?  
15 A. Yes, I saw that.  
16 Q. Okay. And a little further  
17 down, John Hansen of McKesson is  
18 recommending -- appears to be  
19 recommending a revised marketing plan for  
20 oxymorphone ER that he recommends. Do  
21 you see?  
22 A. Yes.  
23 Q. So he's stating he  
24 recommends a "bundled promotion

1 consisting of GC phone campaign to 200  
2 customers, a fax blast to 200 customers,  
3 and a McKesson Connect ad for one week."  
4 Do you see that?  
5 MR. MAIER: Object to form.  
6 THE WITNESS: Yes, I saw  
7 that.  
8 BY MS. BAIG:  
9 Q. Okay. And the total cost  
10 for the bundle was \$8500?  
11 A. Yes.  
12 Q. And do you know whether you  
13 executed on this?  
14 A. I don't remember. I think  
15 we did.  
16 Q. Okay. And for the phone  
17 campaign, the 200 customers, how would  
18 you have determined who those customers  
19 were?  
20 A. We allowed McKesson to  
21 decide who those customers were.  
22 Q. So McKesson would determine  
23 which 200 of its customers it should  
24 target for a phone campaign?

<p style="text-align: right;">Page 285</p> <p>1 MR. BAILEY: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. BAIG:</p> <p>5 Q. Same with the fax blast, the</p> <p>6 200 customers, McKesson would -- would</p> <p>7 determine that?</p> <p>8 A. Yes.</p> <p>9 Q. And do you see, two pages</p> <p>10 later, there's a bullet at the top that</p> <p>11 says, "Recommendation: One phone</p> <p>12 awareness campaign to a targeted pool of</p> <p>13 200 retail independent pharmacies with</p> <p>14 significant brand sales in September."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And what data would have</p> <p>18 been used to determine which pharmacies</p> <p>19 had significant brand sales?</p> <p>20 MR. MAIER: Objection to</p> <p>21 form and foundation.</p> <p>22 MR. BAILEY: Objection to</p> <p>23 form.</p> <p>24 MS. VENTURA: Objection to</p>	<p style="text-align: right;">Page 286</p> <p>1 form.</p> <p>2 THE WITNESS: That would be</p> <p>3 McKesson's internal data.</p> <p>4 BY MS. BAIG:</p> <p>5 Q. And do you see a little</p> <p>6 further down where it says, "Total cost</p> <p>7 for bundled promotion." And it states</p> <p>8 under marketing opportunity, "McKesson</p> <p>9 Connect banner ad."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And they're suggesting that</p> <p>13 it will reach 30,000-plus McKesson</p> <p>14 pharmacy customers.</p> <p>15 MR. MAIER: Objection to</p> <p>16 form.</p> <p>17 BY MS. BAIG:</p> <p>18 Q. Do you see that?</p> <p>19 A. I see that.</p> <p>20 Q. Okay. And the benefit</p> <p>21 suggested here is, "A wide reach of</p> <p>22 message on customers' homepage for one</p> <p>23 week."</p> <p>24 Do you see that?</p>
<p style="text-align: right;">Page 287</p> <p>1 MR. MAIER: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: I see that.</p> <p>4 BY MS. BAIG:</p> <p>5 Q. Okay. So where is this</p> <p>6 banner ad being placed?</p> <p>7 A. That's when McKesson</p> <p>8 customer ordered from McKesson.</p> <p>9 Q. Sure. Where is the ad being</p> <p>10 placed?</p> <p>11 A. On the --</p> <p>12 Q. The banner ad.</p> <p>13 A. On the McKesson order page.</p> <p>14 Q. Okay. And that would be an</p> <p>15 ad for one of Actavis' drugs, correct?</p> <p>16 MR. MAIER: Objection to</p> <p>17 form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MS. BAIG:</p> <p>20 Q. In this case it would be for</p> <p>21 oxymorphone, correct?</p> <p>22 A. Yes. It's for oxymorphone.</p> <p>23 Q. And then it refers to the</p> <p>24 fax blast. "The fax sheet will be sent</p>	<p style="text-align: right;">Page 288</p> <p>1 to 200 McKesson pharmacy customers. The</p> <p>2 benefit would be delivery of the</p> <p>3 marketing message directly to the</p> <p>4 pharmacy." Correct?</p> <p>5 A. Yes. That's in the</p> <p>6 proposal.</p> <p>7 Q. And then the phone awareness</p> <p>8 campaign. They are stating it will reach</p> <p>9 200 customers, and the benefit would be</p> <p>10 messaging personally delivered by</p> <p>11 generics specialist to pharmacy</p> <p>12 decisionmaker.</p> <p>13 Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. Who is the generics</p> <p>16 specialist that delivers the message?</p> <p>17 MS. VENTURA: Objection.</p> <p>18 Foundation.</p> <p>19 MR. MAIER: Objection.</p> <p>20 Foundation.</p> <p>21 THE WITNESS: I don't know.</p> <p>22 It would be McKesson generics</p> <p>23 specialist.</p> <p>24 BY MS. BAIG:</p>

1 Q. Would you communicate with  
2 the generics specialist about what was  
3 being messaged?  
4 A. We did not communicate with  
5 the people directly.  
6 Q. Did you -- did you see a  
7 script or approve a script beforehand?  
8 A. I don't remember.  
9 Q. But you don't remember  
10 actually creating the script and sending  
11 it to them, correct?  
12 A. We don't create scripts for  
13 McKesson and people.  
14 Q. Okay.  
15 (Document marked for  
16 identification as Exhibit  
17 McCormick-22.)  
18 BY MS. BAIG:  
19 Q. I'll have this document  
20 marked as Exhibit 22. Document  
21 Bates-stamped ALLERGAN\_MDL\_00396954  
22 through 960. It's from Jennifer Altier  
23 to Jinping McCormick dated November 21st,  
24 2011. And it appears that Jennifer

1 generic market.  
2 Q. What do you mean by that?  
3 50 percent of the generic market for  
4 Kadian?  
5 A. Kadian.  
6 Q. Correct?  
7 A. For Kadian.  
8 Q. Okay. And the target was  
9 50 percent. But the market share secured  
10 was 56.2 percent; is that right?  
11 A. Yes.  
12 Q. Which means you exceeded the  
13 target, correct?  
14 A. Correct.  
15 Q. And the list of accounts  
16 beneath that, what does that reflect?  
17 A. That's just a key account  
18 who signed with us.  
19 Q. For generic Kadian?  
20 A. For generic Kadian.  
21 Q. And the estimated annual net  
22 sales was going to be \$62.5 million  
23 correct?  
24 A. So with the assumption at

1 Altier is talking with you about a flier  
2 that's being sent out for marketing  
3 purposes; is that right?  
4 MR. MAIER: Objection to  
5 form.  
6 THE WITNESS: Let me just  
7 take a quick look.  
8 BY MS. BAIG:  
9 Q. Sure.  
10 Do you see on the  
11 second-to-last page there is a heading  
12 that says, "Generic Kadian Sales and GP  
13 Summary"?  
14 A. Yes.  
15 Q. What does GP stand for?  
16 A. Gross profit.  
17 Q. Okay. And so just below  
18 that, where it says November 19, 2011,  
19 and then it goes on to say, "Market share  
20 target 50 percent."  
21 Was that to suggest that the  
22 market share target for generic Kadian  
23 sales was 50 percent?  
24 A. It's 50 percent of the

1 the current price and at 90 percent of  
2 generic conversion.  
3 Q. And do you see the page  
4 before, three-quarters of the way down or  
5 so, it says, "The sales team is calling  
6 on 5,500 prescribers. Each of these  
7 prescribers would need to write Kadian  
8 for about 1.3 new patients or convert 1.3  
9 patients from generic MS Contin to  
10 generic Kadian per month to reach the  
11 threshold."  
12 A. Where is that?  
13 Q. It's on the page with the  
14 Bates stamp ending in 956.  
15 A. Sorry. I've almost got it.  
16 Saw that.  
17 Q. What threshold is she  
18 referring to here?  
19 MR. KNAPP: Foundation.  
20 THE WITNESS: I think she's  
21 discussing the merit of keeping  
22 the Kadian sales team or not, the  
23 expense of having them versus the  
24 revenue or additional benefit from



1 having them.  
 2 Sorry, it's a long e-mail.  
 3 BY MS. BAIG:  
 4 Q. I know. So what she's  
 5 saying is that a certain amount of  
 6 additional prescriptions would have to be  
 7 generated in order to justify keeping the  
 8 sales team on; is that right?  
 9 MR. MAIER: Object to form.  
 10 MS. GERMANO: Objection to  
 11 form.  
 12 MS. VENTURA: Objection to  
 13 form and foundation.  
 14 THE WITNESS: I didn't have  
 15 the time to read all the details.  
 16 BY MS. BAIG:  
 17 Q. So if you look at the  
 18 paragraph that starts, Based on the  
 19 net -- on net and net to ASP.  
 20 Do you see that?  
 21 A. Yeah.  
 22 Q. She states, "Based on a net  
 23 ASP for the generic of 46 percent of  
 24 brand WAC and assuming average monthly

1 expenses of about 940,000, the sales team  
 2 would need to generate 3,950  
 3 prescriptions for Actavis above and  
 4 beyond the baseline. No promotion  
 5 scenario.  
 6 "At 56 percent market share,  
 7 this means that the total incremental  
 8 prescriptions generated per month would  
 9 need to be about 7,040. Given that the  
 10 team could influence where prescriptions  
 11 were to be filled, the threshold could  
 12 actually end up being less than 7,040."  
 13 Do you see that?  
 14 A. I saw that.  
 15 Q. Does that suggest to you  
 16 that she is -- that she is suggesting  
 17 that a certain amount of prescriptions,  
 18 incremental prescriptions need to be  
 19 added in order to justify the sales team?  
 20 MR. MAIER: Objection to  
 21 form.  
 22 MS. VENTURA: Object.  
 23 Foundation.  
 24 THE WITNESS: I really

1 couldn't tell you more than what's  
 2 written on this page.  
 3 BY MS. BAIG:  
 4 Q. Okay. Well, how do you  
 5 understand that paragraph?  
 6 A. I have to re-read everything  
 7 because I don't remember to -- you show  
 8 me this one, this e-mail, so what -- what  
 9 the context was.  
 10 Q. Do you see where she says,  
 11 "At 56 percent market share, that means  
 12 the total incremental prescriptions  
 13 generated per month would need to be  
 14 about 7,040"?  
 15 A. Because we achieved the  
 16 50 percent market share, right.  
 17 Q. And then just above that --  
 18 A. Yes.  
 19 Q. -- she says, "I've been  
 20 looking at the impact of keeping the  
 21 sales team in the field and what would be  
 22 required in the way of incremental  
 23 prescriptions to justify the ongoing  
 24 expense."

1 Do you see that?  
 2 A. Yeah.  
 3 Q. Okay. So are you reading  
 4 that to mean that she is looking at sort  
 5 of a return on investment analysis as to  
 6 whether it makes sense to keep the sales  
 7 team on the field for generic Kadian?  
 8 MR. MAIER: Objection to  
 9 form.  
 10 MS. VENTURA: Objection.  
 11 Foundation.  
 12 THE WITNESS: As she said,  
 13 the -- having the sales team is a  
 14 big expense. And then the Kadian  
 15 had already gone generic. So as a  
 16 brand sales team, what -- so the  
 17 trade off between having a sales  
 18 team, incurring the expense and  
 19 the incremental revenue that would  
 20 be generated from having the sales  
 21 team.  
 22 BY MS. BAIG:  
 23 Q. And she goes on to state  
 24 that the "sales team is calling on 50" --

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1 "calling on 5500 prescribers," correct?  
 2 A. Yeah. That's what they were  
 3 doing in that time.  
 4 Q. And that means they are  
 5 detailing those prescribers, correct?  
 6 MS. VENTURA: Objection to  
 7 form. Foundation.  
 8 MR. MAIER: Objection to  
 9 form. Foundation.  
 10 THE WITNESS: That was they  
 11 were calling on the physicians for  
 12 Kadian.  
 13 BY MS. BAIG:  
 14 Q. Meaning they were going to  
 15 the physicians' offices, correct?  
 16 A. They were calling on the  
 17 physicians.  
 18 Q. What -- what do you  
 19 understand that to mean?  
 20 MR. MAIER: Objection.  
 21 Foundation.  
 22 THE WITNESS: It could be  
 23 really a call, or could show up in  
 24 the office.

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1 BY MS. BAIG:  
 2 Q. It could be either way?  
 3 A. It could be either way.  
 4 Q. Okay. Do you see on the  
 5 page before there's some discussion about  
 6 whether or not to use the Kadian logo.  
 7 In the e-mail from Nathalie Leitch to  
 8 you. It's the second page of the  
 9 document. It says, "Could you please let  
 10 Jennifer know what you think of the flier  
 11 when you get a chance? I for one think  
 12 we should use the Kadian logo, but I'm  
 13 easy. This decision may boil down to a  
 14 legal/regulatory call."  
 15 Do you see that?  
 16 A. Yes.  
 17 Q. Do you know whether they  
 18 ultimately decided to use the Kadian logo  
 19 for the marketing of the generic Kadian?  
 20 MR. MAIER: Objection to  
 21 form.  
 22 THE WITNESS: I don't  
 23 remember.  
 24 BY MS. BAIG:

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1 Q. What would be the benefit of  
 2 using the Kadian logo?  
 3 MR. MAIER: Objection to  
 4 form.  
 5 THE WITNESS: As I stated  
 6 there, the -- it's recognized by  
 7 physicians and patients.  
 8 BY MS. BAIG:  
 9 Q. And so when you're marketing  
 10 the generic version of that drug, it's  
 11 beneficial to use the initial logo, is  
 12 that what you're saying?  
 13 MR. MAIER: Objection to  
 14 form.  
 15 MS. VENTURA: Objection to  
 16 form.  
 17 THE WITNESS: So this is  
 18 a -- a very special case for  
 19 generic, because Actavis as a  
 20 company owns both the Kadian brand  
 21 and now we're launching a Kadian  
 22 generic.  
 23 So I mean naturally this  
 24 could -- this would be a topic for

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1 discussion.  
 2 BY MS. BAIG:  
 3 Q. And wouldn't the launch of  
 4 the Kadian generic undercut your sales  
 5 for the Kadian brand name drug?  
 6 MS. VENTURA: Objection.  
 7 Form. Foundation.  
 8 THE WITNESS: So Actavis  
 9 launched the generic Kadian  
 10 because we -- so you typically  
 11 don't do that unless there were  
 12 anticipated or actual generic  
 13 competition for your brand  
 14 product.  
 15 So in this case, we were  
 16 expecting a generic competition  
 17 for the Kadian brand. So,  
 18 therefore, we launched the  
 19 authorized generic of Kadian  
 20 ourselves.  
 21 BY MS. BAIG:  
 22 Q. I see.  
 23 MS. GERMANO: Can we take a  
 24 quick restroom break at this

1 point?  
 2 MS. BAIG: Sure.  
 3 THE VIDEOGRAPHER: Going off  
 4 record. The time is 4:22.  
 5 (Short break.)  
 6 THE VIDEOGRAPHER: We are  
 7 going back on record. Beginning  
 8 of Media File 9. The time is  
 9 4:42.  
 10 (Document marked for  
 11 identification as Exhibit  
 12 McCormick-23.)  
 13 BY MS. BAIG:  
 14 Q. Okay. I'll have this  
 15 document marked as Exhibit 23.  
 16 This document is  
 17 Bates-stamped Acquired\_Actavis\_02114868  
 18 through 882.  
 19 It's from you to Terri  
 20 Nataline and others dated April 27, 2011,  
 21 entitled, "RiskMAP draft." What is a  
 22 RiskMAP draft?  
 23 A. RiskMAP is a risk mitigation  
 24 evaluation mitigation document for this

1 for buprenorphine naloxone, correct?  
 2 A. Yes.  
 3 Q. And that drug is used to  
 4 treat people who are addicted to opioids;  
 5 is that right?  
 6 A. That's correct.  
 7 Q. And I see that there is a  
 8 Caitlin Simili in the e-mail from  
 9 ParagonRx.com. Who is that?  
 10 A. I think she worked for  
 11 ParagonRx.  
 12 Q. And what is ParagonRx?  
 13 A. I think they work with-- I  
 14 don't know what they are. I think the  
 15 RiskMAP was managed by regulatory  
 16 affairs. So I think she was contracted  
 17 or contacted by regulatory affairs to  
 18 work on the RiskMAP.  
 19 Q. I see. And she is -- so  
 20 this is not the agency that you were  
 21 trying to think of earlier. It's not an  
 22 advertising agency?  
 23 A. They are not an advertising  
 24 agency.

1 product, buprenorphine naloxone.  
 2 Q. And did you create the  
 3 draft?  
 4 A. I didn't.  
 5 Q. Did or didn't?  
 6 A. Did not.  
 7 Q. Who created it?  
 8 A. I don't know.  
 9 Q. What was the purpose of it,  
 10 to your -- to your knowledge?  
 11 A. Typically, when generic was  
 12 launched, when generic is launching, even  
 13 to get approval, it required comparable  
 14 service and the -- which includes risk  
 15 management and evaluation that is similar  
 16 or substantially similar to the brand  
 17 product.  
 18 And to -- so buprenorphine  
 19 naloxone branded a RiskMAP, so therefore  
 20 the generic for us to get ready for  
 21 launch, we need to create something of  
 22 substantial similarity to be able to  
 23 market our product.  
 24 Q. And this was a RiskMAP draft

1 Q. Okay. And do you see  
 2 here -- so it states here that in 2010,  
 3 Actavis filed new drug applications to  
 4 market generic formulations of Suboxone.  
 5 Is that your understanding?  
 6 A. That's what it says on  
 7 the --  
 8 Q. I'm looking at the first  
 9 page, first paragraph. Was that your  
 10 understanding was that you were seeking  
 11 approval in or around 2010?  
 12 A. That's when the ANDA was  
 13 filed.  
 14 Q. Do you know why the decision  
 15 was made to seek approval for Suboxone?  
 16 MS. VENTURA: Objection.  
 17 Foundation.  
 18 THE WITNESS: We have  
 19 portfolio management team that was  
 20 in charge of product selection for  
 21 development. So this product was  
 22 selected as a product for  
 23 development.  
 24 BY MS. BAIG:

1 Q. You're not involved in the  
2 product selection?  
3 A. I was not involved in the  
4 initial selection.  
5 Q. And do you see here on the  
6 second page under abuse, misuse and  
7 diversion it states, "The rates of abuse  
8 of buprenorphine products are well below  
9 those of other opioids, such as methadone  
10 or oxycodone"?  
11 A. Yes, I saw that.  
12 Q. Okay. And were you aware at  
13 the time that there were significant  
14 abuse rates for other opioids?  
15 MR. MAIER: Objection to  
16 form and foundation.  
17 THE WITNESS: This was not  
18 really related to that because  
19 schedule -- buprenorphine is  
20 Schedule III drug. Schedule II,  
21 methadone, oxycodone were Schedule  
22 II.  
23 BY MS. BAIG:  
24 Q. Sure. My question is

1 whether or not you had an understanding  
2 at the time that there were significant  
3 abuse rates for the Schedule II drugs  
4 oxycodone and methadone?  
5 MR. MAIER: Objection to  
6 form and foundation.  
7 THE WITNESS: I think  
8 Schedule II by definition lends  
9 itself to potential for abuse.  
10 BY MS. BAIG:  
11 Q. And do you see a little  
12 further down it states, "Opioid addicts  
13 describe the effects to be similar to  
14 those of morphine or heroin at equally  
15 potent doses."  
16 Was that your understanding  
17 at the time?  
18 MS. VENTURA: Objection.  
19 Foundation.  
20 THE WITNESS: I did not know  
21 this.  
22 BY MS. BAIG:  
23 Q. You read this when you  
24 received it, correct?

1 A. Yes.  
2 Q. And the RiskMAP goal and  
3 objective, the key goal as stated on the  
4 next page is, "To reduce the risk of  
5 abuse, misuse, and diversion of  
6 buprenorphine," correct?  
7 A. Yes.  
8 Q. And certain strategies and  
9 tools for doing that included restrictive  
10 prescribing.  
11 Do you see that?  
12 A. Yes.  
13 Q. And education?  
14 A. Yes.  
15 Q. And the educational  
16 materials were to be distributed to  
17 physicians, patients and pharmacists.  
18 Do you see that?  
19 A. Yes, I saw that.  
20 Q. Okay. And who distributed  
21 those educational materials?  
22 A. This product was not  
23 launched while -- during my tenure at  
24 Actavis.

1 Q. Okay.  
2 A. So I do not know.  
3 Q. Do you know typically if  
4 educational materials are distributed to  
5 physicians -- to physicians, patients,  
6 and pharmacists upon product launch?  
7 A. Typically, it was not unless  
8 it was required.  
9 Q. Required by?  
10 A. So this is a RiskMAP.  
11 Sometimes it's called a REMS program.  
12 This was part of the  
13 requirement by FDA.  
14 Q. And do you see the next  
15 category listed under strategy and tools  
16 is prescriber education?  
17 A. Yes.  
18 Q. And did you have a  
19 prescriber education -- a person who was  
20 in charge of prescriber education  
21 generally?  
22 A. Not for generics.  
23 Q. And did you have a person  
24 who was in charge of prescriber education

1 for any opioid products?  
 2 MS. VENTURA: Objection.  
 3 Foundation.  
 4 THE WITNESS: So for generic  
 5 product, we did not have someone  
 6 who was in charge of prescriber  
 7 education.  
 8 BY MS. BAIG:  
 9 Q. My question was with respect  
 10 to opioid products, all opioid products.  
 11 MS. VENTURA: Same  
 12 objection.  
 13 THE WITNESS: So remember,  
 14 typically generic product, we did  
 15 not reach out to prescribers or  
 16 physicians.  
 17 BY MS. BAIG:  
 18 Q. My understanding -- my  
 19 question to you is whether or not you had  
 20 a department or a person who was in  
 21 charge of prescriber education for any  
 22 opioid products, whether it be branded or  
 23 generic. Do you know of anyone that was  
 24 involved in that?

1 education. Did you ever have any  
 2 involvement with patient education?  
 3 MS. GERMANO: Are we talking  
 4 specific to this drug?  
 5 MS. BAIG: No. For any  
 6 drugs.  
 7 MS. GERMANO: Objection as  
 8 to foundation.  
 9 THE WITNESS: As I said  
 10 earlier, generic product --  
 11 generic products selling or  
 12 marketing typically did not  
 13 involve patient -- direct patient  
 14 interaction.  
 15 BY MS. BAIG:  
 16 Q. Do you recall having any  
 17 experience with patient education for any  
 18 opioid products ever while you were at  
 19 Alharma or Actavis?  
 20 A. I do not recall any such  
 21 education.  
 22 Q. Did you have any involvement  
 23 with the National Institute on Drug  
 24 Abuse?

1 A. So we have medical affairs  
 2 department, pharmacovigilance program and  
 3 department who would be doing, you know,  
 4 I would say brand.  
 5 Q. Who would be doing what?  
 6 A. The brand education, or any  
 7 education-related material.  
 8 Q. Okay. And so it would be  
 9 that department that would devise patient  
 10 leaflets for prescriber education?  
 11 MS. VENTURA: Objection.  
 12 Foundation.  
 13 THE WITNESS: So this is --  
 14 so this was a program that would  
 15 be part of the application. And  
 16 so this is just a requirement.  
 17 But we had not, during my tenure  
 18 there, decided how to execute  
 19 these requirements.  
 20 BY MS. BAIG:  
 21 Q. Did you ever have any  
 22 involvement with prescriber education?  
 23 A. I did not.  
 24 Q. The next category is patient

1 A. I did not.  
 2 Q. How about the National  
 3 Addiction Vigilance and Prevention  
 4 Program?  
 5 A. Where is that?  
 6 Q. Couple pages later, 4.1.1.  
 7 A. Okay. I see that. It's  
 8 875.  
 9 Q. Did you have any involvement  
 10 with that organization?  
 11 A. I did not.  
 12 Q. Two pages later you see  
 13 under 4.1.8, street -- something called  
 14 street surveillance? "Actavis will  
 15 conduct street surveillance by means of  
 16 ethnographic research which employs a  
 17 range of observational data collection  
 18 methods to perform targeted quantitative  
 19 investigations to explore discrepancies  
 20 between what individuals report they do  
 21 and the actions they effectively take."  
 22 Were you aware of any such  
 23 program at Actavis?  
 24 A. There was a product we -- we



1 had at that time, I was not aware of  
 2 street surveillance.  
 3 Q. All right. Were you aware  
 4 of any street surveillance at Actavis  
 5 with respect to any opioid product?  
 6 A. I was not aware.  
 7 Q. You never heard of it?  
 8 A. I heard of, in the sense of  
 9 in a document like this, and I think  
 10 because Actavis did not directly conduct  
 11 such surveillance, that's not to say they  
 12 did not contract other people to do that.  
 13 Q. Who did they contract to do  
 14 that?  
 15 A. This is the responsibility  
 16 of regulatory affairs group and  
 17 potentially other groups. It was not the  
 18 responsibility of marketing, sales and  
 19 marketing group.  
 20 Q. So do you know who those  
 21 groups worked with for street --  
 22 A. I do not.  
 23 Q. -- for street surveillance?  
 24 A. I do not.

1 MS. VENTURA: Objection to  
 2 form.  
 3 THE WITNESS: I was not  
 4 aware of that.  
 5 BY MS. BAIG:  
 6 Q. Of an expert, any expert  
 7 advisory group?  
 8 A. So I take it back. I was  
 9 not aware of any expert advisory group  
 10 for generic product.  
 11 Q. How about for any opioid  
 12 products?  
 13 MS. VENTURA: Objection.  
 14 Foundation.  
 15 MR. MAIER: Objection.  
 16 Foundation.  
 17 THE WITNESS: If it's an  
 18 opioid generic product, I was not  
 19 aware of that.  
 20 BY MS. BAIG:  
 21 Q. My question is, were you  
 22 aware of any expert advisory group for  
 23 any opioid product, whether it was  
 24 generic or branded?

1 Q. Under 4.1.9 there's a  
 2 reference to expert advisory group. Do  
 3 you see that?  
 4 A. I see that.  
 5 Q. And it says, "Actavis will  
 6 organize an external, cross-functional  
 7 expert advisory group comprised of  
 8 specialists in opioid addiction therapy,  
 9 epidemiology, bioinformatics or other  
 10 related disciplines."  
 11 Do you see that?  
 12 A. Yes.  
 13 Q. And that the group would  
 14 meet quarterly?  
 15 A. I see that.  
 16 Q. At least quarterly?  
 17 A. Yeah. I said it -- I read  
 18 it's in the document.  
 19 Q. Yes. Okay. So do you know  
 20 anything about that expert advisory  
 21 group?  
 22 A. Are you talking about  
 23 specific to this program?  
 24 Q. Specific to any opioids.

1 MS. VENTURA: Objection.  
 2 Foundation.  
 3 MR. MAIER: Objection.  
 4 Foundation.  
 5 THE WITNESS: I was not  
 6 aware of any generic expert  
 7 advisory group for generic  
 8 product, whether it's opioid or  
 9 not.  
 10 BY MS. BAIG:  
 11 Q. Were you aware of any expert  
 12 advisory group for a branded opioid?  
 13 MS. VENTURA: Objection.  
 14 Foundation.  
 15 THE WITNESS: I think there  
 16 is an advisory group for branded  
 17 product.  
 18 BY MS. BAIG:  
 19 Q. Okay. And what is that  
 20 advisory group?  
 21 A. I was not aware. I do not  
 22 know the details.  
 23 Q. But you are aware that it  
 24 existed?

<p style="text-align: right;">Page 317</p> <p>1 MS. VENTURA: Objection to 2 form. 3 THE WITNESS: I was not 4 100 percent sure. 5 BY MS. BAIG: 6 Q. Well, when did you first 7 hear about it? 8 MS. GERMANO: Objection. 9 Foundation. 10 THE WITNESS: I don't 11 remember. 12 BY MS. BAIG: 13 Q. Well, if you wanted to know 14 about the expert advisory group for the 15 branded -- for the branded opioid 16 products, who would you talk to? 17 MR. KNAPP: Foundation. 18 THE WITNESS: First, I don't 19 have reason to know whether we 20 have one. But if I needed to, I 21 would ask Nathalie Leitch. 22 BY MS. BAIG: 23 Q. You testified that you 24 thought there was an advisory group for</p>	<p style="text-align: right;">Page 318</p> <p>1 branded products. Okay. What do you 2 know about the advisory group for branded 3 opioid products? 4 MS. VENTURA: Objection. 5 Foundation. 6 THE WITNESS: I do not know 7 anything about the expert advisory 8 group for brand product. 9 BY MS. BAIG: 10 Q. Did you hear that one was 11 put together? 12 A. I did not. 13 Q. Well, then why did you 14 testify that you were aware of an 15 advisory group for a branded product? 16 MR. MAIER: Objection to 17 form. 18 THE WITNESS: I -- typically 19 brand had an advisory group. 20 BY MS. BAIG: 21 Q. I see. Do you know of any 22 of the doctors that were on the -- that 23 were involved in the advisory group? 24 MR. KNAPP: Objection.</p>
<p style="text-align: right;">Page 319</p> <p>1 Foundation. 2 MS. VENTURA: Objection. 3 Foundation. 4 THE WITNESS: I did not. 5 BY MS. BAIG: 6 Q. Do you see on the very last 7 page of this document there's a list 8 of -- of references? 9 A. Yes. 10 Q. Would you have read these 11 articles when you received the 12 references? 13 A. I did. 14 Q. So you are familiar with 15 these articles generally? 16 MR. MAIER: Objection to 17 form. 18 THE WITNESS: Well, not the 19 articles, I was looking at the 20 appendix. 21 BY MS. BAIG: 22 Q. You would have read the 23 appendix. Would you have read the actual 24 articles cited there?</p>	<p style="text-align: right;">Page 320</p> <p>1 A. No, I did not. 2 Q. Did you have any interaction 3 with any of the following organizations, 4 the American Pain Society? 5 A. No, I did not. 6 Q. The HDA Research Foundation? 7 A. No, I did not. 8 Q. Center For Healthcare Supply 9 Chain Research? 10 A. No. 11 Q. National Wholesale Druggists 12 Association? 13 A. National Wholesale Drug 14 Association, is that the HDA? 15 Q. The National Wholesale 16 Druggist Association. So I think it's -- 17 I don't know if it's the same. 18 A. Well -- 19 Q. You've had a -- you've had 20 interaction with HDA, is that what you're 21 saying? 22 A. HDMA, yeah. 23 Q. HDMA. 24 How about the American Pain</p>

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<p>1 Foundation?</p> <p>2 A. I did not.</p> <p>3 Q. American Academy of Pain</p> <p>4 Medicine?</p> <p>5 A. No, I did not.</p> <p>6 Q. U.S. Pain Foundation?</p> <p>7 A. No.</p> <p>8 Q. And what was the extent of</p> <p>9 your involvement with the HDMA?</p> <p>10 A. I attended sometimes the</p> <p>11 HDMA's annual conference.</p> <p>12 Q. Did you ever work with key</p> <p>13 opinion leaders?</p> <p>14 A. No, I did not.</p> <p>15 Q. Who worked with the key</p> <p>16 opinion leaders at Actavis?</p> <p>17 MR. KNAPP: Foundation.</p> <p>18 MS. VENTURA: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: I don't know.</p> <p>21 BY MS. BAIG:</p> <p>22 Q. You never heard of Actavis</p> <p>23 working with key opinion leaders before?</p> <p>24 A. I think brand company</p>	<p>1 typically work with key opinion leaders,</p> <p>2 but I don't know any specifics about</p> <p>3 Actavis' involvement with the key opinion</p> <p>4 leaders.</p> <p>5 Q. Okay. Do you know who any</p> <p>6 of the key opinion leaders were with</p> <p>7 respect to opioids?</p> <p>8 A. No, I do not.</p> <p>9 Q. Okay.</p> <p>10 MS. BAIG: I don't have any</p> <p>11 further questions. Thank you.</p> <p>12 THE WITNESS: Thank you.</p> <p>13 MR. MAIER: We'll take a</p> <p>14 couple minutes and come back.</p> <p>15 We'll very, very quick.</p> <p>16 THE VIDEOGRAPHER: Going off</p> <p>17 the record. The time is 5:02.</p> <p>18 (Short break.)</p> <p>19 THE VIDEOGRAPHER: We are</p> <p>20 going back on record. Beginning</p> <p>21 of Media File 10. The time is</p> <p>22 5:12.</p> <p>23 - - -</p> <p>24 EXAMINATION</p>
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<p>1 - - -</p> <p>2 BY MR. MAIER:</p> <p>3 Q. Jinping, I just have a</p> <p>4 couple of questions for you.</p> <p>5 You testified earlier today</p> <p>6 that you understood that Schedule II</p> <p>7 substances had to be taken seriously and</p> <p>8 carried certain obligations for</p> <p>9 suspicious order monitoring. How did you</p> <p>10 gain that understanding?</p> <p>11 A. I gained that understanding</p> <p>12 through several aspects. First,</p> <p>13 on-the-job training through interaction</p> <p>14 with the DEA liaison, our security</p> <p>15 officer, customer service, and regulatory</p> <p>16 affairs people.</p> <p>17 It's also through our</p> <p>18 day-to-day operation and working with,</p> <p>19 you know, people who were ahead of me and</p> <p>20 understanding the obligations.</p> <p>21 Additionally, throughout</p> <p>22 the -- my working career there, there</p> <p>23 were constantly enhancement in the SOM</p> <p>24 process. For example, we would have</p>	<p>1 sales meeting that would be update on the</p> <p>2 SOM. Further, several years down the</p> <p>3 road, we also enhanced the system with</p> <p>4 more automation and working with a</p> <p>5 consultant to update our system and to</p> <p>6 have a more complete, enhanced processes</p> <p>7 and procedures.</p> <p>8 Q. And for as long as you</p> <p>9 worked with Schedule IIs, did you feel</p> <p>10 like you had a sufficient understanding</p> <p>11 of suspicious order monitoring to</p> <p>12 participate in Actavis' program the way</p> <p>13 you did?</p> <p>14 A. Oh, absolutely. I think</p> <p>15 it's a constant reminder of what our</p> <p>16 obligations were and then it was</p> <p>17 permeated through our day-to-day</p> <p>18 operation.</p> <p>19 MR. MAIER: That's all I</p> <p>20 have. Thank you.</p> <p>21 MS. BAIG: I have nothing.</p> <p>22 THE VIDEOGRAPHER: All</p> <p>23 right. This concludes today's</p> <p>24 deposition. We're going off the</p>

<p style="text-align: right;">Page 325</p> <p>1 record. The time is 5:14.  2 (Excused.)  3 (The deposition concluded at  4 approximately 5:14 p.m.)  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24</p>	<p style="text-align: right;">Page 326</p> <p>1  2 CERTIFICATE  3  4  5 I HEREBY CERTIFY that the  6 witness was duly sworn by me and that the  7 deposition is a true record of the  8 testimony given by the witness.  9  10 It was requested before  11 completion of the deposition that the  12 witness, JINPING McCORMICK, have the  13 opportunity to read and sign the  14 deposition transcript.  15  16  17  18 MICHELLE L. GRAY,  19 A Registered Professional  20 Reporter, Certified Shorthand  21 Reporter, Certified Realtime  22 Reporter and Notary Public  23 Dated: January 14, 2019  24  25 (The foregoing certification  26 of this transcript does not apply to any  27 reproduction of the same by any means,  28 unless under the direct control and/or  29 supervision of the certifying reporter.)  30  31  32  33  34</p>
<p style="text-align: right;">Page 327</p> <p>1 INSTRUCTIONS TO WITNESS  2  3 Please read your deposition  4 over carefully and make any necessary  5 corrections. You should state the reason  6 in the appropriate space on the errata  7 sheet for any corrections that are made.  8 After doing so, please sign  9 the errata sheet and date it.  10 You are signing same subject  11 to the changes you have noted on the  12 errata sheet, which will be attached to  13 your deposition.  14 It is imperative that you  15 return the original errata sheet to the  16 deposing attorney within thirty (30) days  17 of receipt of the deposition transcript  18 by you. If you fail to do so, the  19 deposition transcript may be deemed to be  20 accurate and may be used in court.  21  22  23  24</p>	<p style="text-align: right;">Page 328</p> <p>1 - - - - -  2 E R R A T A  3 - - - - -  4 PAGE LINE CHANGE  5  6 REASON: _____  7  8 REASON: _____  9  10 REASON: _____  11  12 REASON: _____  13  14 REASON: _____  15  16 REASON: _____  17  18 REASON: _____  19  20 REASON: _____  21  22 REASON: _____  23  24 REASON: _____</p>

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<p>1</p> <p>2 ACKNOWLEDGMENT OF DEPONENT</p> <p>3</p> <p>4 I, _____, do</p> <p>5 hereby certify that I have read the</p> <p>6 foregoing pages, 1 - 330, and that the</p> <p>7 same is a correct transcription of the</p> <p>8 answers given by me to the questions</p> <p>9 therein propounded, except for the</p> <p>10 corrections or changes in form or</p> <p>11 substance, if any, noted in the attached</p> <p>12 Errata Sheet.</p> <p>13</p> <p>14</p> <p>15 _____</p> <p>16 JINPING McCORMICK DATE</p> <p>17</p> <p>18</p> <p>19 Subscribed and sworn</p> <p>20 to before me this</p> <p>21 _____ day of _____, 20 ____.</p> <p>22 My commission expires: _____</p> <p>23 _____</p> <p>24 Notary Public</p>	<p>1 LAWYER'S NOTES</p> <p>2 PAGE LINE</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p>